

Enrolled
House Bill 3606

Sponsored by Representative SCHAUFLEER (Presession filed.)

CHAPTER

AN ACT

Relating to recycling of electronic devices; creating new provisions; amending ORS 459A.340; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 459A.340 is amended to read:

459A.340. The Department of Environmental Quality shall:

(1) Maintain and make available on its website the following lists, which must be updated by the first day of each month:

- (a) A list of registered manufacturers and their brands;
- (b) A list of brands for which no manufacturer has registered; and
- (c) A list that identifies which manufacturers are in compliance with ORS 459A.305 to 459A.355.

(2) Review and approve manufacturer plans that comply with ORS 459A.320 and are submitted annually by manufacturers choosing to implement a manufacturer program for recycling covered electronic devices.

(3)(a) Determine the return share and return share by weight for each calendar year for each manufacturer. The return share shall be determined by dividing the total weight of covered electronic devices of that manufacturer's brands by the total weight of covered electronic devices for all manufacturers' brands. The return share by weight shall be determined by multiplying the return share for each such manufacturer by the total weight in pounds of covered electronic devices, including orphan devices, collected from covered entities the previous calendar year.

(b) *[For 2008 and 2009,]* **For each manufacturer except those specified in paragraph (c) of this subsection, determine the return share and return share by weight for *[each manufacturer]* calendar years through 2011 based on the best available public return share data and public weight data from within the United States for covered electronic devices from covered entities. For subsequent years, the return share of covered electronic devices for each manufacturer shall be based on the most recent annual sampling or count of covered electronic devices. For subsequent years, the total weight in pounds of covered electronic devices shall be based on the total weight of covered electronic devices, including orphan devices, determined by the department.**

(c) For each manufacturer whose manufacture of covered electronic devices as defined in ORS 459A.305 (3)(a)(C) exceeds its manufacture of covered electronic devices as defined in ORS 459A.305 (3)(a)(A) and (B), determine the return share and return share by weight based on the total return share and return share by weight determined under paragraph (a) of this subsection for all manufacturers described in this paragraph, allocated according to each manufacturer's percentage of the total number of covered electronic devices described in ORS 459A.305 (3)(a)(C) sold in this state the previous calendar year. The department:

(A) May use national market data, retail and manufacturer data, consumer research and other data to determine the percentages described in this paragraph. The department may also require that manufacturers submit sales or other data regarding the number of the manufacturer's covered electronic devices sold in Oregon. Manufacturers must submit any data required by the department in the format requested by the department.

(B) May assess a surcharge to the annual registration fee for manufacturers described in this paragraph if the department determines that the surcharge is necessary to cover any additional costs to the department in making the determinations described in this paragraph. The department must allocate any assessed surcharge to the manufacturer as a percentage of the manufacturer's return share determined pursuant to this paragraph.

[(c)] **(d)** By May 1 of each year, provide to each manufacturer that had a return share determined under this section its return share and its return share by weight for the following year.

(4) Establish a state contractor program for the collection, transportation and recycling of covered electronic devices from covered entities in this state. The state contractor program shall:

(a) To the extent practicable, use existing local collection, transportation and recycling infrastructure;

(b) Utilize environmentally sound management practices to collect, transport and recycle covered electronic devices;

(c) Provide for covered entities, free of charge, convenient and available collection services and sites for covered electronic devices in both rural and urban areas;

(d) Advertise and promote collection opportunities statewide and on a regular basis; and

(e) Conduct a statistically significant sampling or actual count of the covered electronic devices collected and recycled by the state contractor program during each calendar year using a methodology approved by the department and prepare a report no later than March 1 of the following calendar year that includes:

(A) A list of all brands identified during the sampling or count;

(B) The weight of covered electronic devices identified for each brand during the sampling or count; and

(C) The total weight of covered electronic devices, including orphan devices, collected from covered entities in the state by the state contractor program during the previous calendar year.

(5) Determine a manufacturer's annual registration fee for purposes of ORS 459A.315 (2) using national market data prorated for Oregon based on statewide population.

(6) Determine the recycling fee to be paid under ORS 459A.325 by each manufacturer that participates in the state contractor program established pursuant to subsection (4) of this section. The department shall determine the recycling fees *[as follows:]*

[(a) For each manufacturer except those described in paragraph (b) of this subsection, the department shall determine the recycling fee] based on the manufacturer's annual return share and return share by weight as determined under subsection (3) of this section.

[(b) For each manufacturer whose manufacture of covered electronic devices as defined in ORS 459A.305 (3)(a)(C) exceeds its manufacture of covered electronic devices as defined in ORS 459A.305 (3)(a)(A) and (B), the department shall determine the recycling fee based on the total return share and return share by weight determined under subsection (3) of this section of all manufacturers described in this paragraph, allocated according to each manufacturer's percentage of the total number of covered electronic devices described in ORS 459A.305 (3)(a)(C) sold in this state the previous calendar year. The department may use national sales data to determine the percentages. The department may assess a surcharge on the annual registration fee for manufacturers described in this paragraph to pay any added costs to the department in making the determinations.]

(7) Maintain on its website information on collection opportunities for covered electronic devices, including collection site locations and hours. The information must be made available in a printable format for retailers.

(8) Report biennially to the Legislative Assembly on the operation of the statewide system for collection, transportation and recycling of covered electronic devices.

SECTION 2. The amendments to ORS 459A.340 by section 1 of this 2010 Act apply to determinations of return share and return share by weight, and determinations of recycling fees, made by the Department of Environmental Quality for calendar years beginning after 2010.

SECTION 3. This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.

Passed by House February 16, 2010

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Chief Clerk of House

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Speaker of House

Passed by Senate February 20, 2010

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President of Senate

Received by Governor:

.....M.,....., 2010

Approved:

.....M.,....., 2010

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2010

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Secretary of State