

# Senate Bill 82

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows manufacturer program or state contractor program that collects, transports and recycles covered electronic devices beyond certain threshold to claim recycling credits. Specifies requirements related to recycling credits. Clarifies requirements related to manufacturer programs.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to recycling of electronic devices; creating new provisions; amending ORS 459A.305 and  
3 459A.320; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS 459A.310 to**  
6 **459A.335.**

7 **SECTION 2. (1) A manufacturer program or a state contractor program that collects,**  
8 **transports and recycles covered electronic devices in an amount that exceeds the program's**  
9 **return share by weight for a calendar year may claim recycling credits for use in succeeding**  
10 **calendar years as follows:**

11 (a) **A program may claim one recycling credit for each pound of covered electronic de-**  
12 **vices collected, transported and recycled in excess of the program's return share by weight**  
13 **for a calendar year;**

14 (b) **A program may retain all or part of its recycling credits or may sell any portion of**  
15 **its recycling credits to another program at a price negotiated by the parties;**

16 (c) **A manufacturer program may use recycling credits earned or purchased to meet up**  
17 **to 15 percent of its return share by weight during any calendar year. One recycling credit**  
18 **may be used to meet one pound of return share by weight; and**

19 (d) **By rule the Environmental Quality Commission may change the percentage of the**  
20 **return share by weight specified in paragraph (c) of this subsection.**

21 (2) **A manufacturer program must include the following information on recycling credits**  
22 **in its annual report to the Department of Environmental Quality required by ORS 459A.320**  
23 **(3)(e):**

24 (a) **The number of recycling credits the manufacturer program possessed at the begin-**  
25 **ning of the previous calendar year;**

26 (b) **The total number of recycling credits the manufacturer program purchased and sold**  
27 **during the previous calendar year, the names of the programs from which recycling credits**  
28 **were purchased or to which recycling credits were sold and the number of recycling credits**  
29 **purchased from or sold to each program;**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) The number of recycling credits the manufacturer program used to meet its return  
 2 share by weight for the previous calendar year; and

3 (d) The number of recycling credits the manufacturer program is claiming from the  
 4 previous calendar year. This number is the difference between the total weight of covered  
 5 electronic devices that the manufacturer program collected, transported and recycled during  
 6 the previous calendar year and the program's return share by weight for the previous cal-  
 7 endar year.

8 **SECTION 3.** ORS 459A.305 is amended to read:  
 9 459A.305. As used in ORS 459A.305 to 459A.355:

10 (1) "Brand" means a name, symbols, words or marks that identify a covered electronic device,  
 11 rather than any of its components, and attribute the device to the owner of the brand as the man-  
 12 ufacturer.

13 (2) "Collector" means an entity that collects covered electronic devices as part of a manufac-  
 14 turer program or the state contractor program.

15 (3)(a) "Covered electronic device" means:

16 (A) A computer monitor of any type having a viewable area greater than four inches measured  
 17 diagonally;

18 (B) A desktop computer or portable computer; or

19 (C) A television of any type having a viewable area greater than four inches measured  
 20 diagonally.

21 (b) "Covered electronic device" does not include:

22 (A) Any part of a motor vehicle;

23 (B) Any part of a larger piece of equipment designed and intended for use in an industrial,  
 24 commercial or medical setting, such as diagnostic, monitoring or control equipment;

25 (C) Telephones or personal digital assistants of any type unless the telephone or personal digital  
 26 assistant contains a viewable area greater than four inches measured diagonally; or

27 (D) Any part of a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, conven-  
 28 tional oven or range, dishwasher, room air conditioner, dehumidifier or air purifier.

29 (4) "Covered entity" means any Oregon household, a business that employs 10 or fewer individ-  
 30 uals, a not-for-profit organization exempt from taxation under section 501(c)(3) of the Internal Re-  
 31 venue Code that employs 10 or fewer individuals, or any person giving seven or fewer covered  
 32 electronic devices to a collector at any one time.

33 (5) "Environmentally sound management practices" means practices that comply with all appli-  
 34 cable laws, including but not limited to adequate record keeping, tracking the fate of recycled ma-  
 35 terials, performance audits and inspections, provisions for reuse and refurbishment, compliance with  
 36 worker health and safety requirements, maintaining liability insurance and financial assurances and  
 37 practices that may be adopted by rule by the Environmental Quality Commission.

38 (6)(a) "Manufacturer" means any person, irrespective of the selling technique used, including by  
 39 means of remote sale:

40 (A) That manufactures covered electronic devices under a brand that it owns or is licensed to  
 41 use;

42 (B) That sells covered electronic devices manufactured by others under a brand that the seller  
 43 owns;

44 (C) That manufactures covered electronic devices without affixing a brand;

45 (D) That manufactures covered electronic devices to which it affixes a brand that it does not

1 own; or

2 (E) On whose account covered electronic devices manufactured outside the United States are  
3 imported into the United States. This subparagraph does not apply if, at the time the covered  
4 electronic devices are imported into the United States, another person is registered as the man-  
5 ufacturer of the brand of the covered electronic devices.

6 (b) “Manufacturer” does not include a person with a license to manufacture covered electronic  
7 devices for delivery exclusively to or at the order of the licensor.

8 (7) “Manufacturer program” means a statewide plan for collecting, transporting and recycling  
9 covered electronic devices that is provided by a single manufacturer or group of manufacturers  
10 pursuant to ORS 459A.320.

11 (8) “Orphan device” means a covered electronic device for which no manufacturer can be iden-  
12 tified.

13 (9) “Person” means the United States, the state or a public or private corporation, local gov-  
14 ernment unit, public agency, individual, partnership, association, firm, trust, estate or other legal  
15 entity.

16 (10) “Portable computer” means any of the following that has a viewable area greater than four  
17 inches measured diagonally and that can be carried as one unit by an individual:

18 (a) A laptop computer;

19 (b) A notebook computer; or

20 (c) A notepad computer.

21 (11) “Premium service” means services such as at-location system upgrade services and at-home  
22 pickup services, including curbside pickup service.

23 (12)(a) “Recycling” means:

24 (A) Processing through disassembling, dismantling, shredding, transforming or remanufacturing  
25 covered electronic devices, components and by-products into usable or marketable raw materials or  
26 products in a manner such that the original products may lose their identity; or

27 (B) Smelting materials from components removed from covered electronic devices to recover  
28 metals for reuse in conformance with applicable laws and rules.

29 (b) “Recycling” does not include:

30 (A) Landfill disposal or incineration of covered electronic devices; or

31 (B) Energy recovery or energy generation by means of combusting covered electronic devices,  
32 components and by-products with or without other waste.

33 **(13) “Recycling credit” means a credit granted to a manufacturer program or a state**  
34 **contractor program for the collection, transport and recycling of covered electronic devices**  
35 **in an amount that exceeds the program’s return share by weight for a calendar year.**

36 [(13)] (14) “Retailer” means a person that offers new covered electronic devices for sale at retail  
37 through any means, including but not limited to remote offerings such as sales outlets, catalogs or  
38 the Internet.

39 [(14)] (15) “Return share” means the minimum percentage of covered electronic devices that an  
40 individual manufacturer is responsible for collecting, transporting and recycling.

41 [(15)] (16) “Return share by weight” means the minimum total weight of covered electronic de-  
42 vices that an individual manufacturer is responsible for collecting, transporting and recycling.

43 [(16)(a)] (17)(a) “Sell” or “sale” means any transfer of title for consideration, including but not  
44 limited to remote sales conducted through sales outlets, catalogs or the Internet, or any other sim-  
45 ilar electronic means.

(b) “Sell” or “sale” does not include leases.

[(17)] (18) “State contractor program” means a statewide program for collecting, transporting and recycling covered electronic devices that is provided by the Department of Environmental Quality for manufacturers who pay a recycling fee to the department pursuant to ORS 459A.325.

**SECTION 4.** ORS 459A.320 is amended to read:

459A.320. (1) A manufacturer choosing to implement a manufacturer program shall submit a plan to the Department of Environmental Quality at the time of payment of the annual registration fee required under ORS 459A.315.

(2) The manufacturer’s plan must describe how the manufacturer will:

(a) Finance, manage and conduct a statewide program to collect covered electronic devices from covered entities in this state.

(b) Provide for environmentally sound management practices to collect, transport and recycle covered electronic devices.

(c) Provide for advertising and promotion of collection opportunities statewide and on a regular basis.

(d) Include convenient service in every county in this state and at least one collection site for any city with a population of at least 10,000. A collection site for a county may be the same as a collection site for a city in the county. Collection sites shall be staffed and open to the public at a frequency adequate to meet the needs of the area being served. A program may provide collection service jointly with another program.

(3) A manufacturer choosing to implement a manufacturer program shall:

(a) Meet or exceed the requirements for collection sites described in subsection (2) of this section.

(b) Provide for collection, transportation and recycling of covered electronic devices for covered entities free of charge, except that a manufacturer that provides premium service for a covered entity may charge for the additional cost of that premium service.

(c) Implement the plan required under this section.

(d) Conduct a statistically significant sampling or actual count of the covered electronic devices collected and recycled by the manufacturer each calendar year using a methodology approved by the department. The manufacturer shall report the results of the sampling or count to the department, **in accordance with the approved sampling methodology or as directed by the department**, no later than March 1 of the following calendar year. The report must include:

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

(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 manufacturer during the previous calendar year.

(e) By March 1 of each year, provide a report to the department that details how the plan required under this section was implemented during the previous calendar year.

(4) A group of manufacturers may choose to implement a manufacturer program as one entity, if in doing so the manufacturers meet the sum of their individual return shares by weight under ORS 459A.340 (3) and that sum is at least five percent.

(5) By July 1 of each year, a manufacturer that does not meet its return share by weight for the previous calendar year shall pay the department for the amount not achieved at a rate determined by the department to be equivalent to the amount the manufacturer would have paid, plus 10 per-

1 cent, to be part of the state contractor program under ORS 459A.340.

2 (6) A manufacturer participating in the state contractor program under ORS 459A.340 shall no-  
3 tify the department at the time of its registration each year.

4 (7) Except as provided in subsection (4) of this section, a manufacturer with less than a five  
5 percent return share is required to participate in the state contractor program under ORS 459A.340.

6 **SECTION 5. Section 2 of this 2011 Act and the amendments to ORS 459A.305 and 459A.320**  
7 **by sections 3 and 4 of this 2011 Act apply to calendar year 2011 and each calendar year**  
8 **thereafter.**

9 **SECTION 6. This 2011 Act being necessary for the immediate preservation of the public**  
10 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
11 **on its passage.**

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