

SENATE AMENDMENTS TO SENATE BILL 82

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

May 2

1 On page 1 of the printed bill, line 2, after “amending” delete the rest of the line and insert
2 “ORS 459A.305, 459A.310, 459A.320, 459A.335 and 459A.340”.

3 In line 3, delete “459A.320”.

4 Delete lines 5 through 29 and delete pages 2 through 5 and insert:

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.**

30 **“(c) The number of recycling credits the manufacturer program used to meet its return**
31 **share by weight for the previous calendar year.**

32 **“(d) The number of recycling credits the manufacturer program is claiming from the**
33 **previous calendar year. This number is the difference between the total weight of covered**
34 **electronic devices that the manufacturer program collected, transported and recycled during**
35 **the previous calendar year and the program’s return share by weight for the previous cal-**

1 **endar year.**

2 **“SECTION 3.** ORS 459A.305 is amended to read:

3 “459A.305. As used in ORS 459A.305 to 459A.355:

4 “(1) ‘Brand’ means a name, symbols, words or marks that identify a covered electronic device,
5 rather than any of its components, and attribute the device to the owner of the brand as the man-
6 ufacturer.

7 “(2) ‘Collector’ means an entity that collects covered electronic devices as part of a manufac-
8 turer program or the state contractor program.

9 “(3)(a) ‘Covered electronic device’ means:

10 “(A) A computer monitor of any type having a viewable area greater than four inches measured
11 diagonally;

12 “(B) A desktop computer or portable computer; or

13 “(C) A television of any type having a viewable area greater than four inches measured
14 diagonally.

15 “(b) ‘Covered electronic device’ does not include:

16 “(A) Any part of a motor vehicle;

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

19 “(C) Telephones or personal digital assistants of any type unless the telephone or personal dig-
20 ital assistant contains a viewable area greater than four inches measured diagonally; or

21 “(D) Any part of a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, con-
22 ventional oven or range, dishwasher, room air conditioner, dehumidifier or air purifier.

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

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

32 “(6)(a) ‘Manufacturer’ means any person, irrespective of the selling technique used, including by
33 means of remote sale:

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

36 “(B) That sells covered electronic devices manufactured by others under a brand that the seller
37 owns;

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

39 “(D) That manufactures covered electronic devices to which it affixes a brand that it does not
40 own; or

41 “(E) On whose account covered electronic devices manufactured outside the United States are
42 imported into the United States. This subparagraph does not apply if, at the time the covered elec-
43 tronic devices are imported into the United States, another person is registered as the manufacturer
44 of the brand of the covered electronic devices.

45 “(b) ‘Manufacturer’ does not include a person with a license to manufacture covered electronic

1 devices for delivery exclusively to or at the order of the licenser.

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

5 “(8) ‘Orphan device’ means a covered electronic device for which no manufacturer can be iden-
6 tified.

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

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

12 “(a) A laptop computer;

13 “(b) A notebook computer; or

14 “(c) A notepad computer.

15 “(11) ‘Premium service’ means services such as at-location system upgrade services and at-home
16 pickup services, including curbside pickup service.

17 “(12)(a) ‘Recycling’ means:

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

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

23 “(b) ‘Recycling’ does not include:

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

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

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

30 “[13] (14) ‘Retailer’ means a person that offers new covered electronic devices for sale at retail
31 through any means, including but not limited to remote offerings such as sales outlets, catalogs or
32 the Internet.

33 “[14] (15) ‘Return share’ means the minimum percentage of covered electronic devices that an
34 individual manufacturer is responsible for collecting, transporting and recycling.

35 “[15] (16) ‘Return share by weight’ means the minimum total weight of covered electronic de-
36 vices that an individual manufacturer is responsible for collecting, transporting and recycling.

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

40 “(b) ‘Sell’ or ‘sale’ does not include leases.

41 “[17] (18) ‘State contractor program’ means a statewide program for collecting, transporting
42 and recycling covered electronic devices that is provided by the Department of Environmental
43 Quality for manufacturers who pay a recycling fee to the department pursuant to ORS 459A.325.

44 “**SECTION 4.** ORS 459A.305, as amended by section 3 of this 2011 Act, is amended to read:

45 “459A.305. As used in ORS 459A.305 to 459A.355:

1 “(1) ‘Brand’ means a name, symbols, words or marks that identify a covered electronic device,
2 rather than any of its components, and attribute the device to the owner of the brand as the man-
3 ufacturer.

4 “(2) ‘Collector’ means an entity that collects covered electronic devices as part of a manufac-
5 turer program or the state contractor program.

6 “(3) **‘Computer peripheral’ means:**

7 “(a) **A keyboard or mouse sold exclusively for external use with a computer as a wireless**
8 **or corded device that provides input into, or output from, a computer; or**

9 **“(b) Cords used with a keyboard or mouse described in paragraph (a) of this subsection.**

10 “[3)(a)] (4)(a) ‘Covered electronic device’ means:

11 “(A) A computer monitor of any type having a viewable area greater than four inches measured
12 diagonally;

13 “(B) A desktop computer or portable computer; [or]

14 “(C) A television of any type having a viewable area greater than four inches measured
15 diagonally[.];

16 **“(D) A computer peripheral; or**

17 **“(E) A printer.**

18 “(b) ‘Covered electronic device’ does not include:

19 “(A) Any part of a motor vehicle;

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

22 “(C) Telephones or personal digital assistants of any type unless the telephone or personal dig-
23 ital assistant contains a viewable area greater than four inches measured diagonally; or

24 “(D) Any part of a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, con-
25 ventional oven or range, dishwasher, room air conditioner, dehumidifier or air purifier.

26 “[4)] (5) ‘Covered entity’ means any Oregon household, a business that employs 10 or fewer in-
27 dividuals, a not-for-profit organization exempt from taxation under section 501(c)(3) of the Internal
28 Revenue Code that employs 10 or fewer individuals, or any person giving seven or fewer covered
29 electronic devices to a collector at any one time.

30 “[5)] (6) ‘Environmentally sound management practices’ means practices that comply with all
31 applicable laws, including but not limited to adequate record keeping, tracking the fate of recycled
32 materials, performance audits and inspections, provisions for reuse and refurbishment, compliance
33 with worker health and safety requirements, maintaining liability insurance and financial assurances
34 and practices that may be adopted by rule by the Environmental Quality Commission.

35 “[6)(a)] (7)(a) ‘Manufacturer’ means any person, irrespective of the selling technique used, in-
36 cluding by means of remote sale:

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

39 “(B) That sells covered electronic devices manufactured by others under a brand that the seller
40 owns;

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

42 “(D) That manufactures covered electronic devices to which it affixes a brand that it does not
43 own; or

44 “(E) On whose account covered electronic devices manufactured outside the United States are
45 imported into the United States. This subparagraph does not apply if, at the time the covered elec-

1 tronic devices are imported into the United States, another person is registered as the manufacturer
2 of the brand of the covered electronic devices.

3 “(b) ‘Manufacturer’ does not include a person:

4 “(A) With a license to manufacture covered electronic devices for delivery exclusively to or at
5 the order of the licensor.

6 “(B) **That manufactures only computer peripherals and no other covered electronic de-**
7 **vices.**

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

11 “[8] (9) ‘Orphan device’ means a covered electronic device for which no manufacturer can be
12 identified.

13 “[9] (10) ‘Person’ means the United States, the state or a public or private corporation, local
14 government unit, public agency, individual, partnership, association, firm, trust, estate or other legal
15 entity.

16 “[10] (11) ‘Portable computer’ means any of the following that has a viewable area greater than
17 four 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] (12) ‘Premium service’ means services such as at-location system upgrade services and
22 at-home pickup services, including curbside pickup service.

23 “(13)(a) **‘Printer’ means a device that:**

24 “(A) **Is used to make reproductions, or is multifunctional and performs one or more op-**
25 **erations such as scanning or faxing in addition to making reproductions;**

26 “(B) **Is designed to be placed on a desk or other work surface and may include an optional**
27 **floor stand; and**

28 “(C) **Uses print technology such as laser, electrographic, ink jet, dot matrix, thermal or**
29 **digital sublimation.**

30 “(b) **‘Printer’ does not include a device used to make reproductions that:**

31 “(A) **Is floor-standing;**

32 “(B) **Is a point of sale receipt printer;**

33 “(C) **Is also a calculator;**

34 “(D) **Can also make labels; or**

35 “(E) **Is embedded in something other than a covered electronic device.**

36 “[12)(a)] (14)(a) ‘Recycling’ means:

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

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

42 “(b) ‘Recycling’ does not include:

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

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

1 “[(13)] (15) ‘Recycling credit’ means a credit granted to a manufacturer program or a state
2 contractor program for the collection, transport and recycling of covered electronic devices in an
3 amount that exceeds the program’s return share by weight for a calendar year.

4 “[(14)] (16) ‘Retailer’ means a person that offers new covered electronic devices for sale at retail
5 through any means, including but not limited to remote offerings such as sales outlets, catalogs or
6 the Internet.

7 “[(15)] (17) ‘Return share’ means the minimum percentage of covered electronic devices that an
8 individual manufacturer is responsible for collecting, transporting and recycling.

9 “[(16)] (18) ‘Return share by weight’ means the minimum total weight of covered electronic de-
10 vices that an individual manufacturer is responsible for collecting, transporting and recycling.

11 “[(17)(a)] (19)(a) ‘Sell’ or ‘sale’ means any transfer of title for consideration, including but not
12 limited to remote sales conducted through sales outlets, catalogs or the Internet, or any other sim-
13 ilar electronic means.

14 “(b) ‘Sell’ or ‘sale’ does not include leases.

15 “[(18)] (20) ‘State contractor program’ means a statewide program for collecting, transporting
16 and recycling covered electronic devices that is provided by the Department of Environmental
17 Quality for manufacturers who pay a recycling fee to the department pursuant to ORS 459A.325.

18 “**SECTION 5.** ORS 459A.320 is amended to read:

19 “459A.320. (1) A manufacturer choosing to implement a manufacturer program shall submit a
20 plan to the Department of Environmental Quality at the time of payment of the annual registration
21 fee required under ORS 459A.315.

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

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

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

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

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

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

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

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

40 “(c) Implement the plan required under this section.

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

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

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

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

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

8 “(4) A group of manufacturers may choose to implement a manufacturer program as one entity,
9 if in doing so the manufacturers meet the sum of their individual return shares by weight under ORS
10 459A.340 (3) and that sum is at least five percent.

11 “(5) By July 1 of each year, a manufacturer that does not meet its return share by weight for
12 the previous calendar year shall pay the department for the amount not achieved at a rate deter-
13 mined by the department to be equivalent to the amount the manufacturer would have paid, plus 10
14 percent, to be part of the state contractor program under ORS 459A.340.

15 “(6) A manufacturer participating in the state contractor program under ORS 459A.340 shall
16 notify the department at the time of its registration each year.

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

19 **“SECTION 6.** ORS 459A.320, as amended by section 5 of this 2011 Act, is amended to read:

20 “459A.320. (1) A manufacturer choosing to implement a manufacturer program shall submit a
21 plan to the Department of Environmental Quality at the time of payment of the annual registration
22 fee required under ORS 459A.315.

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

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

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

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

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

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

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

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

41 “(c) Implement the plan required under this section.

42 “(d) Conduct a statistically significant sampling or actual count of the covered electronic de-
43 vices, **except for computer peripherals**, collected and recycled by the manufacturer each calendar
44 year using a methodology approved by the department. The manufacturer shall report the results
45 of the sampling or count to the department, in accordance with the approved sampling methodology

1 or as directed by the department, no later than March 1 of the following calendar year. The report
2 must include:

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

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

6 “(C) The total weight of covered electronic devices, including orphan devices **and computer**
7 **peripherals**, collected from covered entities in the state by the manufacturer during the previous
8 calendar year.

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

11 “(4) A group of manufacturers may choose to implement a manufacturer program as one entity,
12 if in doing so the manufacturers meet the sum of their individual return shares by weight under ORS
13 459A.340 (3) and that sum is at least five percent.

14 “(5) By July 1 of each year, a manufacturer that does not meet its return share by weight for
15 the previous calendar year shall pay the department for the amount not achieved at a rate deter-
16 mined by the department to be equivalent to the amount the manufacturer would have paid, plus 10
17 percent, to be part of the state contractor program under ORS 459A.340.

18 “(6) A manufacturer participating in the state contractor program under ORS 459A.340 shall
19 notify the department at the time of its registration each year.

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

22 “**SECTION 7.** ORS 459A.335 is amended to read:

23 “459A.335. (1) A retailer may not sell or offer for sale any covered electronic device, **except for**
24 **computer peripherals**, in or for delivery into this state unless:

25 “(a) The covered electronic device is labeled with a brand and the label is permanently affixed
26 and readily visible;

27 “(b) The brand is included on the list posted by the Department of Environmental Quality pur-
28 suant to ORS 459A.340 (1); and

29 “(c) The list posted by the department pursuant to ORS 459A.340 (1) specifies that the man-
30 ufacturer is in compliance with the requirements of ORS 459A.305 to 459A.355.

31 “(2) A retailer shall provide to a consumer at the time of the sale of a covered electronic device
32 information from the department’s website that provides details about where and how a consumer
33 can recycle covered electronic devices in Oregon. The information shall be provided in printed form
34 for in-store sales and in printable form for Internet sales and other sales where the Internet is in-
35 volved.

36 “**SECTION 8.** ORS 459A.340, as amended by section 1, chapter 38, Oregon Laws 2010, is
37 amended to read:

38 “459A.340. The Department of Environmental Quality shall:

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

41 “(a) A list of registered manufacturers and their brands;

42 “(b) A list of brands for which no manufacturer has registered; and

43 “(c) A list that identifies which manufacturers are in compliance with ORS 459A.305 to
44 459A.355.

45 “(2) Review and approve manufacturer plans that comply with ORS 459A.320 and are submitted

1 annually by manufacturers choosing to implement a manufacturer program for recycling covered
2 electronic devices.

3 “(3)(a) Determine the return share and return share by weight for each calendar year for each
4 manufacturer. The return share shall be determined by dividing the total weight of covered elec-
5 tronic devices of that manufacturer’s brands by the total weight of covered electronic devices for
6 all manufacturers’ brands. The return share by weight shall be determined by multiplying the return
7 share for each such manufacturer by the total weight in pounds of covered electronic devices, in-
8 cluding orphan devices [*, collected from covered entities the previous calendar year*] **and computer**
9 **peripherals, as determined by the department.**

10 “(b) For each manufacturer except those specified in paragraph (c) of this subsection, determine
11 the return share and return share by weight for calendar years through 2011 based on the best
12 available public return share data and public weight data from within the United States for covered
13 electronic devices from covered entities. For subsequent years, the return share of covered elec-
14 tronic devices for each manufacturer shall be based on the most recent annual sampling or count
15 of covered electronic devices. For subsequent years, the total weight in pounds of covered electronic
16 devices shall be based on the total weight of covered electronic devices, including orphan devices
17 **and computer peripherals, as**[,] determined by the department.

18 “(c) For each manufacturer whose manufacture of covered electronic devices as defined in ORS
19 459A.305 [(3)(a)(C)] **(4)(a)(C)** exceeds its manufacture of covered electronic devices as defined in
20 ORS 459A.305 [(3)(a)(A) and (B)] **(4)(a)(A) and (B)**, determine the return share and return share by
21 weight based on the total return share and return share by weight determined under paragraph (a)
22 of this subsection for all manufacturers described in this paragraph, allocated according to each
23 manufacturer’s percentage of the total number of covered electronic devices described in ORS
24 459A.305 [(3)(a)(C)] **(4)(a)(C)** sold in this state the previous calendar year. The department:

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

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

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

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

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

41 “(b) Utilize environmentally sound management practices to collect, transport and recycle cov-
42 ered electronic devices;

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

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

1 “(e) Conduct a statistically significant sampling or actual count of the covered electronic de-
2 vices, **except for computer peripherals**, collected and recycled by the state contractor program
3 during each calendar year using a methodology approved by the department and prepare a report
4 no later than March 1 of the following calendar year that includes:

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

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

8 “(C) The total weight of covered electronic devices, including orphan devices **and computer**
9 **peripherals**, collected from covered entities in the state by the state contractor program during the
10 previous calendar year.

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

13 “(6) Determine the recycling fee to be paid under ORS 459A.325 by each manufacturer that
14 participates in the state contractor program established pursuant to subsection (4) of this section.
15 The department shall determine the recycling fees based on the manufacturer’s annual return share
16 and return share by weight as determined under subsection (3) of this section.

17 “(7) Maintain on its website information on collection opportunities for covered electronic de-
18 vices, including collection site locations and hours. The information must be made available in a
19 printable format for retailers.

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

22 “**SECTION 9.** ORS 459A.310 is amended to read:

23 “459A.310. (1) ORS 459A.305 to 459A.355 apply to all manufacturers engaging in the activities
24 set forth in ORS 459A.305 [(6)] (7) before, on or after June 7, 2007.

25 “(2) ORS 459A.305 to 459A.355 do not apply to reused or refurbished covered electronic devices.

26 “(3) A manufacturer may not sell or offer for sale any covered electronic device, **except for**
27 **computer peripherals**, in or for delivery in this state unless:

28 “(a) The covered electronic device is labeled with a brand and the label is permanently affixed
29 and readily visible; and

30 “(b) The brand is included in the plan that is filed with the Department of Environmental
31 Quality pursuant to ORS 459A.320.

32 “**SECTION 10.** (1) **Section 2 of this 2011 Act and the amendments to ORS 459A.305 and**
33 **459A.320 by sections 3 and 5 of this 2011 Act apply to calendar year 2011 and each calendar**
34 **year thereafter.**

35 “(2)(a) **Except as provided in paragraph (b) of this subsection, the amendments to ORS**
36 **459A.305, 459A.310, 459A.320, 459A.335 and 459A.340 by sections 4 and 6 to 9 of this 2011 Act**
37 **become operative on January 1, 2015, and apply to calendar year 2015 and each calendar year**
38 **thereafter.**

39 “(b) **Before the operative date specified in paragraph (a) of this subsection, the Environ-**
40 **mental Quality Commission may adopt rules or take any other action, and the Department**
41 **of Environmental of Quality may take any action, including but not limited to requiring**
42 **submission of the plan specified in ORS 459A.320 and payment of the registration fee required**
43 **under ORS 459A.315, as necessary to implement and ensure compliance with, on or after the**
44 **operative date specified in paragraph (a) of this subsection, the amendments to ORS**
45 **459A.305, 459A.310, 459A.320, 459A.335 and 459A.340 by sections 4 and 6 to 9 of this 2011 Act.**

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

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