

DRAFT

SUMMARY

Modifies provisions of electronic device recycling program. Directs Department of Environmental Quality to calculate manufacturers' return share and return share by weight under electronic device recycling program for period beginning April 1, 2022, and ending December 31, 2022.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to covered electronic devices recycling; creating new provisions;
3 amending ORS 459A.320 and 459A.340; and declaring an emergency.

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

5 **SECTION 1.** ORS 459A.320 is amended to read:

6 459A.320. (1) A manufacturer choosing to implement a manufacturer pro-
7 gram shall submit a plan to the Department of Environmental Quality at the
8 time of payment of the annual registration fee required under ORS 459A.315.

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

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

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

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

16 (d) Include convenient service in every county in this state and at least
17 one collection site for any city with a population of at least 10,000. A col-
18 lection site for a county may be the same as a collection site for a city in
19 the county. Collection sites shall be staffed and open to the public at a fre-

1 quency adequate to meet the needs of the area being served. A program may
2 provide collection service jointly with another program.

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

4 (a) Meet or exceed the requirements for collection sites described in sub-
5 section (2) of this section.

6 (b) Provide for collection, transportation and recycling of covered elec-
7 tronic devices for covered entities free of charge, except that a manufacturer
8 that provides premium service for a covered entity may charge for the addi-
9 tional cost of that premium service.

10 (c) Implement the plan required under this section.

11 (d) Conduct a statistically significant sampling or actual count of the
12 covered electronic devices, except for computer peripherals, collected and
13 recycled by the manufacturer each calendar year using a methodology ap-
14 proved by the department. The manufacturer shall report the results of the
15 sampling or count to the department at least annually or as required by the
16 department. The sampling or count methodology must take into account
17 information including but not limited to the device type, weight and brand
18 of each unit sampled.

19 (e) In addition to the report required by paragraph (d) of this subsection
20 and no later than March 1 of each year, [*the manufacturer shall*] provide a
21 report to the department that:

22 (A) Includes the total weight of covered electronic devices, including or-
23 phan devices and computer peripherals, collected from covered entities in
24 this state by the manufacturer during the previous calendar year;

25 (B) Includes the total weight of each type of covered electronic device,
26 including orphan devices and computer peripherals, collected from covered
27 entities in this state by the manufacturer during the previous calendar year;
28 and

29 (C) Details how the plan required under this section was implemented
30 during the previous calendar year.

31 (f) Use **existing and willing local collection, transportation and re-**

1 **cycling or solid waste infrastructure.**

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

6 (5) By July 1 of each year, a manufacturer that does not meet its return
7 share by weight for the previous calendar year shall pay the department for
8 the amount not achieved at a rate determined by the department to be
9 equivalent to the amount the manufacturer would have paid, plus 10 percent,
10 to be part of the state contractor program under ORS 459A.340.

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

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

17 **SECTION 2.** ORS 459A.340 is amended to read:

18 459A.340. The Department of Environmental Quality shall:

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

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

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

23 (c) A list that identifies which manufacturers are in compliance with ORS
24 459A.305 to 459A.355.

25 (2) Review and approve manufacturer plans that comply with ORS
26 459A.320 and are submitted annually by manufacturers choosing to imple-
27 ment a manufacturer program for recycling covered electronic devices.

28 (3)(a) For each calendar year, determine:

29 (A) The total weight in pounds of covered electronic devices, including
30 orphan devices and computer peripherals, to be collected; and

31 (B) Of the total weight determined under subparagraph (A) of this para-

1 graph, the proportion that is equal to the total weight of televisions and the
2 proportion that is equal to the total weight of nontelelevision devices.

3 (b) For each calendar year, determine each manufacturer's television
4 market share and nontelelevision market share as follows:

5 (A) A manufacturer's television market share shall be determined by di-
6 viding the total weight in pounds of televisions sold in this state under
7 brands manufactured, sold or imported by the manufacturer during the pre-
8 vious calendar year by the total weight in pounds of televisions sold in this
9 state under all brands manufactured, sold or imported by all registered
10 manufacturers during the previous calendar year.

11 (B) A manufacturer's nontelelevision market share shall be determined by
12 dividing the total weight in pounds of nontelelevision devices sold in this state
13 under brands manufactured, sold or imported by the manufacturer during the
14 previous calendar year by the total weight in pounds of nontelelevision devices
15 sold in this state under all brands manufactured, sold or imported by all
16 registered manufacturers during the previous calendar year.

17 (C) The department may use national market data prorated for Oregon,
18 retail or manufacturer data, consumer research or any other data from the
19 previous calendar year, as determined by the department, to make the de-
20 terminations described in this paragraph. The department may require a
21 manufacturer to submit sales or other data regarding the number and weight
22 of covered electronic devices sold in this state by the manufacturer. A man-
23 ufacturer must submit any data required by the department under this sub-
24 paragraph in the format requested by the department.

25 (c) Determine the return share and return share by weight each calendar
26 year for each manufacturer as follows:

27 (A) A manufacturer's return share by weight shall be equal to the sum
28 of the manufacturer's return share by weight for televisions as calculated
29 under subparagraph (B) of this paragraph and the manufacturer's return
30 share by weight for nontelelevision devices as calculated under subparagraph

31 (C) of this paragraph.

1 (B) A manufacturer's return share by weight for televisions shall be equal
2 to the product of the manufacturer's television market share as determined
3 under paragraph (b)(A) of this subsection multiplied by the total weight of
4 television devices to be collected as determined under paragraph (a)(B) of
5 this subsection.

6 (C) A manufacturer's return share by weight for nontelevision devices
7 shall be equal to the product of the manufacturer's nontelevision market
8 share as determined under paragraph (b)(B) of this subsection multiplied by
9 the total weight of nontelevision devices to be collected as determined under
10 paragraph (a)(B) of this subsection.

11 (D) A manufacturer's return share shall be equal to the quotient of the
12 manufacturer's return share by weight divided by the sum total of the return
13 shares by weight for all manufacturers.

14 (d) By May 1 of each year, provide to each manufacturer that had a re-
15 turn share determined under this section its return share and its return
16 share by weight for the following year.

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

20 (a) [*To the extent practicable,*] Use existing **and willing** local collection,
21 transportation and recycling **or solid waste** infrastructure.

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

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

27 (d) Advertise and promote collection opportunities statewide and on a
28 regular basis.

29 (e) Conduct a statistically significant sampling or actual count of the
30 covered electronic devices, except for computer peripherals, collected and
31 recycled by the state contractor program during each calendar year using a

1 methodology approved by the department. The state contractor shall report
2 the results of the sampling or count to the department at least annually or
3 as required by the department. The methodology must take into account in-
4 formation including but not limited to the device type, weight and brand of
5 each unit sampled.

6 (f) No later than March 1 of the following calendar year, report, for the
7 previous calendar year:

8 (A) The total weight of covered electronic devices, including orphan de-
9 vices and computer peripherals, collected from covered entities in this state
10 by the state contractor program; and

11 (B) The total weight of each type of covered electronic device, including
12 orphan devices and computer peripherals, collected from covered entities in
13 this state by the state contractor program during the previous calendar year.

14 (5) Determine a manufacturer's annual registration fee for purposes of
15 ORS 459A.315 (2). In determining a manufacturer's annual registration fee,
16 the department may use national market data prorated for Oregon, retail or
17 manufacturer data, consumer research or any other data from the previous
18 calendar year, as determined by the department. The department may require
19 a manufacturer to submit sales or other data regarding the number of cov-
20 ered electronic devices sold in this state by the manufacturer. A manufac-
21 turer must submit any data required by the department under this subsection
22 in the format requested by the department.

23 (6) Determine the recycling fee to be paid under ORS 459A.325 by each
24 manufacturer that participates in the state contractor program established
25 pursuant to subsection (4) of this section. The department shall determine
26 the recycling fees based on the manufacturer's annual return share and re-
27 turn share by weight as determined under subsection (3) of this section.

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

31 (8) Report biennially to the Legislative Assembly on the operation of the

1 statewide system for collection, transportation and recycling of covered
2 electronic devices.

3 **SECTION 3. (1) Notwithstanding ORS 459A.340 and any previous**
4 **determinations made by the Department of Environmental Quality**
5 **under ORS 459A.340 (3):**

6 (a) **The total weight in pounds of covered electronic devices, in-**
7 **cluding orphan devices and computer peripherals, to be collected for**
8 **the period beginning April 1, 2022, and ending December 31, 2022, shall**
9 **be 10,500,000.**

10 (b) **For the period beginning April 1, 2022, and ending December 31,**
11 **2022, the department shall determine each manufacturer's return**
12 **share and return share by weight, using the method set forth in ORS**
13 **459A.340 (3), based on the total weight in pounds of covered electronic**
14 **devices to be collected described in paragraph (a) of this subsection.**

15 (2) **As used in this section, "computer peripheral," "covered elec-**
16 **tronic device," "manufacturer," "orphan device," "return share" and**
17 **"return share by weight" have the meanings given those terms in ORS**
18 **459A.305.**

19 **SECTION 4. This 2022 Act being necessary for the immediate pres-**
20 **ervation of the public peace, health and safety, an emergency is de-**
21 **clared to exist, and this 2022 Act takes effect on its passage.**

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