House Bill 4158

Sponsored by COMMITTEE ON RULES (at the request of Oregon Refuse and Recycling Association, Association of Oregon Recyclers, City of Medford, Lincoln County)

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.

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

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

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

SECTION 1. 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, except for computer peripherals, collected and recycled by the manufacturer each calendar year using a methodology approved by the department. The manufacturer shall report the results of the

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.

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sampling or count to the department at least annually or as required by the department. The sampling or count methodology must take into account information including but not limited to the device type, weight and brand of each unit sampled.

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

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

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

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

(f) Use existing and willing local collection, transportation and recycling or solid waste infrastructure.

(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 percent, to be part of the state contractor program under ORS 459A.340.

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

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

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

ORS 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) For each calendar year, determine:

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

(B) Of the total weight determined under subparagraph (A) of this paragraph, the proportion that is equal to the total weight of televisions and the proportion that is equal to the total weight of nontelevision devices.

(b) For each calendar year, determine each manufacturer’s television market share and nontelevision market share as follows:

(A) A manufacturer’s television market share shall be determined by dividing the total weight

in pounds of televisions sold in this state under brands manufactured, sold or imported by the man-
ufacturer during the previous calendar year by the total weight in pounds of televisions sold in this
state under all brands manufactured, sold or imported by all registered manufacturers during the
previous calendar year.

(B) A manufacturer’s nontelevision market share shall be determined by dividing the total
weight in pounds of nontelevision devices sold in this state under brands manufactured, sold or im-
ported by the manufacturer during the previous calendar year by the total weight in pounds of
nontelevision devices sold in this state under all brands manufactured, sold or imported by all reg-
istered manufacturers during the previous calendar year.

(C) The department may use national market data prorated for Oregon, retail or manufacturer
data, consumer research or any other data from the previous calendar year, as determined by the
department, to make the determinations described in this paragraph. The department may require
a manufacturer to submit sales or other data regarding the number and weight of covered electronic
devices sold in this state by the manufacturer. A manufacturer must submit any data required by
the department under this subparagraph in the format requested by the department.

(c) Determine the return share and return share by weight each calendar year for each man-
ufacturer as follows:

(A) A manufacturer’s return share by weight shall be equal to the sum of the manufacturer’s
return share by weight for televisions as calculated under subparagraph (B) of this paragraph and
the manufacturer’s return share by weight for nontelevision devices as calculated under subpara-
graph (C) of this paragraph.

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

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

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

(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 cov-
ered electronic devices from covered entities in this state. The state contractor program shall:

(a) [To the extent practicable.] Use existing and willing local collection, transportation and re-
cycling or solid waste infrastructure.

(b) Utilize environmentally sound management practices to collect, transport and recycle cov-
ered 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.

(e) Conduct a statistically significant sampling or actual count of the covered electronic devices,
except for computer peripherals, collected and recycled by the state contractor program during each
calendar year using a methodology approved by the department. The state contractor shall report
the results of the sampling or count to the department at least annually or as required by the department. The methodology must take into account information including but not limited to the device type, weight and brand of each unit sampled.

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

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

(B) The total weight of each type of covered electronic device, including orphan devices and computer peripherals, collected from covered entities in this 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). In determining a manufacturer’s annual registration fee, the department may use national market data prorated for Oregon, retail or manufacturer data, consumer research or any other data from the previous calendar year, as determined by the department. The department may require a manufacturer to submit sales or other data regarding the number of covered electronic devices sold in this state by the manufacturer. A manufacturer must submit any data required by the department under this subsection in the format requested by the department.

(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 based on the manufacturer’s annual return share and return share by weight as determined under subsection (3) of this section.

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

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

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

(2) As used in this section, “computer peripheral,” “covered electronic device,” “manufacturer,” “orphan device,” “return share” and “return share by weight” have the meanings given those terms in ORS 459A.305.

SECTION 4. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.