

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

1
2 Relating to covered electronic devices recycling; creating new provisions; amending ORS 459A.320
3 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 program shall submit a plan
7 to the Department of Environmental Quality at the time of payment of the annual registration fee
8 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 electronic devices from
11 covered entities in this state.

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

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

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

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

22 (a) Meet or exceed the requirements for collection sites described in subsection (2) of this sec-
23 tion.

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

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

28 (d) Conduct a statistically significant sampling or actual count of the covered electronic devices,
29 except for computer peripherals, collected and recycled by the manufacturer each calendar year
30 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.

1 sampling or count to the department at least annually or as required by the department. The sam-
 2 pling or count methodology must take into account information including but not limited to the de-
 3 vice type, weight and brand of each unit sampled.

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

6 (A) Includes the total weight of covered electronic devices, including orphan devices and com-
 7 puter peripherals, collected from covered entities in this state by the manufacturer during the pre-
 8 vious calendar year;

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

12 (C) Details how the plan required under this section was implemented during the previous cal-
 13 endar year.

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

16 (4) A group of manufacturers may choose to implement a manufacturer program as one entity,
 17 if in doing so the manufacturers meet the sum of their individual return shares by weight under ORS
 18 459A.340 (3) and that sum is at least five percent.

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

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

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

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

28 459A.340. The Department of Environmental Quality shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (e) Conduct a statistically significant sampling or actual count of the covered electronic devices,
44 except for computer peripherals, collected and recycled by the state contractor program during each
45 calendar year using a methodology approved by the department. The state contractor shall report

1 the results of the sampling or count to the department at least annually or as required by the de-
 2 partment. The methodology must take into account information including but not limited to the de-
 3 vice type, weight and brand of each unit sampled.

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

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

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

10 (5) Determine a manufacturer’s annual registration fee for purposes of ORS 459A.315 (2). In de-
 11 termining a manufacturer’s annual registration fee, the department may use national market data
 12 prorated for Oregon, retail or manufacturer data, consumer research or any other data from the
 13 previous calendar year, as determined by the department. The department may require a manufac-
 14 turer to submit sales or other data regarding the number of covered electronic devices sold in this
 15 state by the manufacturer. A manufacturer must submit any data required by the department under
 16 this subsection in the format requested by the department.

17 (6) Determine the recycling fee to be paid under ORS 459A.325 by each manufacturer that partic-
 18 ipates in the state contractor program established pursuant to subsection (4) of this section. The
 19 department shall determine the recycling fees based on the manufacturer’s annual return share and
 20 return share by weight as determined under subsection (3) of this section.

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

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

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

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

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

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

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