

House Bill 3220

Sponsored by Representative MARSH

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 electronics recycling program. Expands definition of covered electronic device. Establishes criteria for electronics producer responsibility programs. Repeals requirement that Department of Environmental Quality establish state contractor program. Repeals requirement that department make certain calculations used in administration of program.

Directs Environmental Quality Commission to establish fee calculated to cover costs to department of carrying out program.

Establishes that changes to program become operative on July 1, 2025. Provides transition provisions.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to electronics recycling; creating new provisions; amending ORS 459.247, 459A.305,
3 459A.310, 459A.320, 459A.330, 459A.335, 459A.340, 459A.355 and 459A.360; repealing ORS
4 459A.315, 459A.322 and 459A.325; and prescribing an effective date.

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

ELECTRONICS PRODUCER RESPONSIBILITY

(Changes to Oregon E-Cycles Program)

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10 **SECTION 1.** ORS 459A.305 is amended to read:

11 459A.305. As used in ORS 459A.305 to 459A.355:

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

15 (2) "Collector" means an entity that collects covered electronic devices as part of [*a manufac-*
16 *turer program or the state contractor program*] **an electronics producer responsibility program.**

17 [(3) "Computer peripheral" means:]

18 [(a) A keyboard or mouse sold exclusively for external use with a computer as a wireless or corded
19 device that provides input into, or output from, a computer; or]

20 [(b) Cords used with a keyboard or mouse described in paragraph (a) of this subsection.]

21 [(4)(a)] **(3)(a)** "Covered electronic device" means:

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

24 (B) A desktop computer or portable computer;

25 (C) A television;

26 (D) A [*computer*] peripheral; [*or*]

27 (E) A printer[.];

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 (F) A facsimile machine;
- 2 (G) A videocassette recorder;
- 3 (H) A portable digital music player that has memory capability and is battery powered;
- 4 (I) A digital video disc player;
- 5 (J) A digital video disc recorder;
- 6 (K) A video game console;
- 7 (L) A digital converter box;
- 8 (M) A cable receiver;
- 9 (N) A satellite receiver;
- 10 (O) A router; or
- 11 (P) A modem.

12 (b) “Covered electronic device” does not include:

- 13 (A) Any part of a motor vehicle;
- 14 (B) Any part of a larger piece of equipment designed and intended for use in an industrial,
- 15 commercial or medical setting, such as diagnostic, monitoring or control equipment;
- 16 (C) Telephones or personal digital assistants of any type unless the telephone or personal digital
- 17 assistant contains a viewable area greater than four inches measured diagonally; or
- 18 (D) Any part of a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, conven-
- 19 tional oven or range, dishwasher, room air conditioner, dehumidifier or air purifier.

20 [(5)] (4) “Covered entity” means any Oregon household, a business that employs 10 or fewer in-

21 dividuals, a [not-for-profit] **nonprofit** organization [exempt from taxation under section 501(c)(3) of the

22 *Internal Revenue Code*] that employs 10 or fewer individuals, or any person giving seven or fewer

23 covered electronic devices to a collector at any one time.

24 (5) “**Electronics producer responsibility organization**” means a **nonprofit organization**

25 **designated by a manufacturer or group of manufacturers to act as an agent of the man-**

26 **ufacturer or group of manufacturers for the purpose of developing and implementing an**

27 **electronics producer responsibility program on behalf of the manufacturer or group of man-**

28 **ufacturers, as required by ORS 459A.305 to 459A.355.**

29 (6) “**Electronics producer responsibility program**” means a **statewide program for col-**

30 **lecting, transporting and recycling covered electronic devices that is implemented by an**

31 **electronics producer responsibility organization pursuant to a plan approved by the Depart-**

32 **ment of Environmental Quality under section 5 of this 2023 Act.**

33 [(6)] (7) “Environmentally sound management practices” means practices that comply with all

34 applicable laws, including but not limited to adequate record keeping, tracking the fate of recycled

35 materials, performance audits and inspections, provisions for reuse and refurbishment, compliance

36 with worker health and safety requirements, maintaining liability insurance and financial assurances

37 and practices that may be adopted by rule by the Environmental Quality Commission.

38 [(7)(a)] (8)(a) “Manufacturer” means any person, irrespective of the selling technique used, in-

39 cluding by 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:

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

9 (B) That manufactures only *[computer]* peripherals and no other covered electronic devices.

10 [(8) “Manufacturer program” means a statewide plan for collecting, transporting and recycling
 11 covered electronic devices that is provided by a single manufacturer or group of manufacturers pursu-
 12 ant to ORS 459A.320.]

13 **(9) “Nonprofit organization” means an organization or group of organizations described**
 14 **in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under**
 15 **section 501(a) of the Internal Revenue Code.**

16 [(9) “Nontelevision device” means a device described in subsection (4)(a)(A), (B), (D) or (E) of this
 17 section.]

18 [(10) “Nontelevision market share” means a manufacturer’s percentage of all registered covered
 19 electronic devices except those described in subsection (4)(a)(C) of this section that are sold in this state
 20 during a specified time period.]

21 [(11)] **(10) “Orphan device” means a covered electronic device for which no manufacturer can**
 22 **be identified.**

23 **(11) “Peripheral” means:**

24 **(a) A keyboard, mouse or other device sold exclusively for external use with a covered**
 25 **electronic device as a wireless or corded device that provides input into, or output from, a**
 26 **covered electronic device;**

27 **(b) Cords used with a keyboard, mouse or other device described in paragraph (a) of this**
 28 **subsection; or**

29 **(c) Other devices or equipment sold for use with a covered electronic device, as further**
 30 **defined by the commission by rule.**

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

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

36 (a) A laptop computer;

37 (b) A notebook computer; or

38 (c) A notepad computer.

39 (14) “Premium service” means services such as at-location system upgrade services and at-home
 40 pickup services, including curbside pickup service.

41 (15)(a) “Printer” means a device that:

42 (A) Is used to make reproductions, or is multifunctional and performs one or more operations
 43 such as scanning or faxing in addition to making reproductions;

44 (B) Is designed to be placed on a desk or other work surface and may include an optional floor
 45 stand; and

1 (C) Uses print technology such as laser, electrographic, ink jet, dot matrix, thermal or digital
2 sublimation.

3 (b) "Printer" does not include a device used to make reproductions that:

4 (A) Is floor-standing;

5 (B) Is a point of sale receipt printer;

6 (C) Is also a calculator;

7 (D) Can also make labels; or

8 (E) Is embedded in something other than a covered electronic device.

9 (16)(a) "Recycling" means:

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

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

15 (b) "Recycling" does not include:

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

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

19 [(17) "Recycling credit" means a credit granted to a manufacturer program or a state contractor
20 program for the collection, transport and recycling of covered electronic devices in an amount that ex-
21 ceeds the program's return share by weight for a calendar year.]

22 [(18)] (17) "Retailer" means a person that offers new covered electronic devices for sale at retail
23 through any means, including but not limited to remote offerings such as sales outlets, catalogs or
24 the Internet.

25 [(19) "Return share" means the minimum percentage of covered electronic devices that an individ-
26 ual manufacturer is responsible for collecting, transporting and recycling.]

27 [(20) "Return share by weight" means the minimum total weight of covered electronic devices that
28 an individual manufacturer is responsible for collecting, transporting and recycling.]

29 [(21)(a)] (18)(a) "Sell" or "sale" means any transfer of title for consideration, including but not
30 limited to remote sales conducted through sales outlets, catalogs or the Internet, or any other sim-
31 ilar electronic means.

32 (b) "Sell" or "sale" does not include leases.

33 [(22) "State contractor program" means a statewide program for collecting, transporting and recy-
34 cling covered electronic devices that is provided by the Department of Environmental Quality for man-
35 ufacturers who pay a recycling fee to the department pursuant to ORS 459A.325.]

36 [(23)] (19) "Television" means a television of any type having a viewable area greater than four
37 inches measured diagonally.

38 [(24) "Television market share" means a manufacturer's percentage of the registered covered elec-
39 tronic devices described in subsection (4)(a)(C) of this section that are sold in this state during a spec-
40 ified time period.]

41 **SECTION 2.** ORS 459A.310 is amended to read:

42 459A.310. (1) ORS 459A.305 to 459A.355 apply to all manufacturers engaging in the activities set
43 forth in ORS 459A.305 [(7)] (8) before, on or after June 7, 2007.

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

45 (3) A manufacturer may not sell or offer for sale any covered electronic device[, *except for*

1 *computer peripherals,*] in or for delivery in this state unless:

2 (a) **Except as provided in subsection (4) of this section, the manufacturer participates in**
 3 **an electronics producer responsibility program that complies with the requirements of ORS**
 4 **459A.305 to 459A.355;**

5 [(a)] (b) The covered electronic device is labeled with a brand and the label is permanently af-
 6 fixed and readily visible; and

7 [(b)] (c) The brand is included in [*the*] a plan that is [*filed with*] **approved by** the Department
 8 of Environmental Quality pursuant to [*ORS 459A.320*] **section 5 of this 2023 Act.**

9 (4) **A manufacturer is not required to participate in an electronics producer responsibility**
 10 **program for a given year if the manufacturer provides proof to the department's satisfaction**
 11 **that the manufacturer sold fewer than 50 covered electronic devices in this state during the**
 12 **previous year.**

13 (5) **The failure of an electronics producer responsibility organization to satisfy any of the**
 14 **obligations delegated to it by a manufacturer does not relieve the manufacturer of the**
 15 **manufacturer's obligation to satisfy the requirements of ORS 459A.305 to 459A.355.**

16 **SECTION 3.** ORS 459A.320 is amended to read:

17 459A.320. [(1) *A manufacturer choosing to implement a manufacturer program shall submit a plan*
 18 *to the Department of Environmental Quality at the time of payment of the annual registration fee re-*
 19 *quired under ORS 459A.315.*]

20 (1) **In the form and manner prescribed by the Department of Environmental Quality, an**
 21 **electronics producer responsibility organization must annually submit to the department a**
 22 **plan for implementing an electronics producer responsibility program.**

23 (2) The [*manufacturer's*] **electronics producer responsibility organization's** plan must describe
 24 how the [*manufacturer*] **electronics producer responsibility organization will implement an**
 25 **electronics producer responsibility program that complies with ORS 459A.305 to 459A.355,**
 26 **including how the electronics producer responsibility organization will:**

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

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

31 (c) Provide for advertising and promotion of collection opportunities statewide and on a regular
 32 basis, **as described in section 8 of this 2023 Act.**

33 (d)(A) [*Include convenient service in every county in this state and at least one collection site for*
 34 *any city with a population of at least 10,000.*] **Provide convenient service throughout the state,**
 35 **including to rural areas and historically underserved populations.**

36 (B) **At a minimum, convenient service must include a network of collection sites dis-**
 37 **tributed to ensure that 95 percent of the residents of this state are within 15 miles of a col-**
 38 **lection site, and must include:**

39 (i) **At least one collection site in each county;**

40 (ii) **In each city with a population of at least 10,000 but less than 200,000, at least one**
 41 **collection site, plus one additional collection site for every additional 20,000 residents of the**
 42 **city over 10,000; and**

43 (iii) **In each city with a population of 200,000 or greater, at least ten collection sites, plus**
 44 **one additional collection site for every additional 50,000 residents of the city over 200,000.**

45 (C) **Collection sites described in subparagraphs (B)(ii) and (iii) of this paragraph must be**

1 **located within two miles of the city boundaries and located to provide reasonably convenient**
 2 **and equitable access to all residents of the city served.**

3 **(D)** A collection site for a county may be the same as a collection site for a city in the county.
 4 Collection sites shall be staffed and open to the public at a frequency adequate to meet the needs
 5 of the area being served. *[A program]* **An electronics producer responsibility organization** may
 6 provide collection service jointly with another *[program]* **electronics producer responsibility or-**
 7 **ganization.**

8 **(E)** The department may waive the requirements of subparagraphs (A) to (D) of this
 9 paragraph with respect to a county or city if the proposed plan demonstrates to the
 10 department's satisfaction that the electronics producer responsibility organization can pro-
 11 vide service in that county or city through an alternative method that adequately meets the
 12 needs of the jurisdiction.

13 **(e)** Ensure continuous improvement of the electronics producer responsibility program
 14 by:

15 **(A)** Establishing measurable goals for:

- 16 **(i)** Collection, such as amount collected or usage rates of collection services;
- 17 **(ii)** Increasing public awareness of the program; and
- 18 **(iii)** Reuse, such as amount collected and diverted for reuse.

19 **(B)** Evaluating every four years whether additional electronic devices should be included
 20 in the program.

21 **(f)** Coordinate with other electronics producer responsibility organizations, including
 22 through a coordinating body under section 6 of this 2023 Act, if applicable.

23 **(3)** In addition to the information required under subsection (2) of this section, an elec-
 24 tronics producer responsibility program plan must include:

25 **(a)** A list of all processors that will be used by the electronics producer responsibility
 26 program;

27 **(b)** The contact information for the electronics producer responsibility organization;

28 **(c)** A list of all manufacturers participating in the electronics producer responsibility
 29 program; and

30 **(d)** A list of all brands of covered electronic devices manufactured, sold or imported by
 31 each participating manufacturer, including:

32 **(A)** Those brands being offered for sale in this state by each manufacturer; and

33 **(B)** Those brands that were offered for sale in this state by each manufacturer during
 34 the previous year.

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 **(4)** An electronics producer responsibility organization must:

39 *[(b)]* **(a)** Provide for collection, transportation and recycling of covered electronic devices for
 40 covered entities free of charge, except that *[a manufacturer]* **an electronics producer responsibil-**
 41 **ity program** that provides premium service for a covered entity may charge for the additional cost
 42 of that premium service.

43 *[(c)]* **(b)** Implement the plan required under this section.

44 **(c)** Provide financial compensation to collection sites for their reasonable actual costs to
 45 collect and manage covered electronic devices.

1 **(d) Enter into agreements with all willing, permitted transfer stations, as defined in ORS**
 2 **459.005, to collect covered electronic devices in accordance with all applicable laws and the**
 3 **approved electronics producer responsibility program plan.**

4 [(d)] (e) Conduct a statistically significant sampling or actual count of the covered electronic
 5 devices, except for [computer] peripherals, collected and recycled by the [manufacturer] **electronics**
 6 **producer responsibility program** each [calendar] year using a methodology approved by the de-
 7 partment. The [manufacturer] **electronics producer responsibility organization** shall report the
 8 results of the sampling or count to the department at least annually or as required by the depart-
 9 ment. The sampling or count methodology must take into account information including but not
 10 limited to the device type, weight and brand of each unit sampled.

11 [(e)] (f) In addition to the report required by paragraph [(d)] (e) of this subsection, **in the form**
 12 **and manner prescribed by the department**, [and no later than March 1 of each year, the man-
 13 ufacturer shall] provide [a] **an annual** report to the department that:

14 (A) Includes the total weight of covered electronic devices, including orphan devices and [com-
 15 puter] peripherals, collected from covered entities in this state by the [manufacturer] **electronics**
 16 **producer responsibility program** during the previous [calendar] year;

17 (B) Includes the total weight of each type of covered electronic device, including orphan devices
 18 and [computer] peripherals, collected from covered entities in this state by the [manufacturer] **elec-**
 19 **tronics producer responsibility program** during the previous [calendar] year; [and]

20 [(C) Details how the plan required under this section was implemented during the previous calen-
 21 dar year.]

22 (C) **Includes a list of all collection sites and processors used by the electronics producer**
 23 **responsibility program;**

24 (D) **Includes the total amount, by weight, of each type of covered electronic device, in-**
 25 **cluding orphan devices and peripherals, collected at each collection site, presented in a**
 26 **manner that assists the department in determining the rate of use of each collection site;**

27 (E) **Includes the results of any approved alternative methods of service in adequately**
 28 **meeting the needs of the applicable jurisdiction, including the date of each alternative service**
 29 **event and the total weight of each type of covered electronic device, including orphan devices**
 30 **and peripherals, collected at each alternative service event;**

31 (F) **Details how the plan required under this section was implemented during the previous**
 32 **year, including:**

33 (i) **A description of how the electronics producer responsibility organization complied**
 34 **with subsection (2)(e) of this section that includes whether goals have been met, a summary**
 35 **of public awareness activities and copies of public awareness materials developed by the**
 36 **electronics producer responsibility organization; and**

37 (ii) **A summary of any safety or security problems that occurred during the collection,**
 38 **transportation or disposal of covered electronic devices and the actual or potential future**
 39 **resolutions of those problems; and**

40 (G) **Includes an attestation that all covered electronic devices collected under the elec-**
 41 **tronics producer responsibility program were collected and disposed of in compliance with**
 42 **all applicable laws, rules and regulations and in accordance with environmentally sound**
 43 **management standards.**

44 (g) **Retain all records related to the implementation and administration of the electronics**
 45 **producer responsibility program for not less than five years from the time the record was**

1 created and make the records available for inspection and audit by the department upon re-
2 quest.

3 (h) Provide, upon the request of the department, the contact information and a point of
4 contact for each manufacturer participating in the electronics producer responsibility pro-
5 gram.

6 (5) The department shall review reports submitted under subsection (4)(f) of this section,
7 and approve those reports that the department determines satisfy the requirements of sub-
8 section (4)(f) of this section. If the department does not approve a report, the department
9 shall provide the electronics producer responsibility organization with written notice of re-
10 visions necessary for approval and the timeline for resubmittal.

11 (6) Rules adopted by the Environmental Quality Commission to implement this section
12 may include standards for environmentally sound management practices and standards for
13 participating collection sites.

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

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

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

23 *[(7) Except as provided in subsection (4) of this section, a manufacturer with less than a five per-
24 cent return share is required to participate in the state contractor program under ORS 459A.340.]*

25 **SECTION 4.** Sections 5 to 8 of this 2023 Act are added to and made a part of ORS 459A.310
26 to 459A.335.

27 **SECTION 5.** (1) The Department of Environmental Quality shall approve an electronics
28 producer responsibility program plan as provided in this section if the department deter-
29 mines that the plan satisfies the requirements of ORS 459A.320.

30 (2) Not later than 60 days after receiving a plan under ORS 359A.320, the department
31 shall either approve, approve with conditions or reject the plan. If the department rejects the
32 plan, the department shall provide the reason or reasons for the rejection. An electronics
33 producer responsibility organization must submit a revised plan to the department no later
34 than 45 days after the date of the rejection.

35 (3) No later than 45 days after receiving a revised plan under subsection (2) of this sec-
36 tion, the department shall either approve, approve with conditions or reject the revised plan.

37 (4) If the department rejects a revised plan, the department may:

38 (a) Require the electronics producer responsibility organization to further revise the plan
39 in accordance with a timeline set forth by the department;

40 (b) Direct changes to the revised plan; or

41 (c) Direct the manufacturer or manufacturers on whose behalf the revised plan was
42 submitted to register with an electronics producer responsibility organization with an ap-
43 proved plan.

44 (5) If the department directs changes to a revised plan under subsection (4) of this sec-
45 tion, the electronics producer responsibility organization must implement the changes or

1 request a hearing under ORS chapter 183.

2 **SECTION 6.** If the Department of Environmental Quality approves more than one elec-
 3 tronics producer responsibility program plan to be implemented:

4 (1) Two or more electronics producer responsibility organizations may coordinate to
 5 jointly provide collection services or other activities required under ORS 459A.305 to
 6 459A.355.

7 (2) Two or more electronics producer responsibility organizations may authorize a coor-
 8 dinating body to coordinate activities required under ORS 459A.305 to 459A.355.

9 (3) Each electronics producer responsibility organization must coordinate with all other
 10 electronics producer responsibility organizations to calculate market share if market share
 11 will be used by electronics producer responsibility organizations to apportion responsibility
 12 for developing and implementing educational resources and public awareness activities under
 13 section 8 of this 2023 Act, for jointly providing collection services or for satisfying any other
 14 obligations under ORS 459A.305 to 459A.355.

15 (4) The department may require two or more electronics producer responsibility organ-
 16 izations to coordinate activities required under ORS 459A.305 to 459A.355 through a coordi-
 17 nating body.

18 **SECTION 7.** (1) The Environmental Quality Commission shall establish by rule an annual
 19 fee, which must be reasonably calculated to cover the costs to the Department of Environ-
 20 mental Quality of implementing, administering and enforcing ORS 459A.305 to 459A.355.

21 (2) The commission shall establish by rule a one-time plan review fee reasonably calcu-
 22 lated to cover the costs to the department of reviewing the initial electronics producer re-
 23 sponsibility program plan submitted to the department for approval under section 5 of this
 24 2023 Act by each electronics producer responsibility organization. The department may not
 25 approve an initial plan under section 5 of this 2023 Act if the electronics producer responsi-
 26 bility organization has not paid the fee required by this subsection.

27 **SECTION 8.** (1) An electronics producer responsibility organization shall develop educa-
 28 tional resources and public awareness activities to advertise and promote, on a regular basis,
 29 recycling of covered electronic devices and collection opportunities statewide. At a minimum,
 30 an electronics producer responsibility organization must:

31 (a) Promote recycling of covered electronic devices through the electronics producer re-
 32 sponsibility program;

33 (b) Establish a toll-free telephone number and a website address that a covered entity
 34 may use to contact the electronics producer responsibility organization about the electronics
 35 producer responsibility program; and

36 (c) Publicize information on the location of collection sites and all other collections ser-
 37 vices offered by the electronics producer responsibility program.

38 (2) If the Department of Environmental Quality approves more than one electronics
 39 producer responsibility program plan, each electronics producer responsibility organization
 40 must coordinate with all other electronics producer responsibility organizations to imple-
 41 ment ongoing public awareness activities to ensure that covered entities can easily identify,
 42 understand and access the services provided by all electronics producer responsibility pro-
 43 grams that are operational in this state. The public awareness activities must:

44 (a) Utilize a statewide system of promotion;

45 (b) Be uniformly branded to allow covered entities to easily understand that all elec-

1 **tronics producer responsibility organizations are providing services under ORS 459A.305 to**
 2 **ORS 459A.355; and**

3 **(c) Satisfy the requirements of subsection (1) of this section, including providing a single**
 4 **website and toll-free telephone number listing the collection services of all electronics pro-**
 5 **ducer responsibility programs.**

6 **SECTION 9. Section 10 of this 2023 Act is added to and made a part of ORS 459A.305 to**
 7 **459A.355.**

8 **SECTION 10. (1) The Department of Environmental Quality may require a manufacturer**
 9 **or an electronics producer responsibility organization to submit information to the depart-**
 10 **ment to evaluate compliance with ORS 459A.305 to 459A.355. A manufacturer or electronics**
 11 **producer responsibility organization must submit any data or information required by the**
 12 **department under this subsection in the format requested by the department.**

13 **(2) Trade secrets, as defined in ORS 646.461, and information protected by trademark or**
 14 **patent that the department receives from an electronics producer responsibility organization**
 15 **or manufacturer pursuant to ORS 459A.305 to 459A.355 are confidential and not subject to**
 16 **public disclosure under ORS 192.311 to 192.478, except that the department may disclose**
 17 **summarized information or aggregated data if the information or data does not directly or**
 18 **indirectly identify the information of a specific electronics producer responsibility organiza-**
 19 **tion or manufacturer. For purposes of this subsection, compilations of publicly available in-**
 20 **formation, which may have economic value, are not considered to be confidential**
 21 **information.**

22 **SECTION 11. 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] **made publicly available** by the Department of
 28 Environmental Quality pursuant to ORS 459A.340 (1); and

29 (c) The list [posted] **made publicly available** by the department pursuant to ORS 459A.340 [(1)]
 30 **(3)** specifies that the manufacturer is in compliance with the requirements of ORS 459A.305 to
 31 459A.355.

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

37 **SECTION 12. ORS 459A.340 is amended to read:**

38 459A.340. The Department of Environmental Quality shall **make publicly available:**

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

41 [(a)] **(1)** A list of registered manufacturers and their brands;

42 [(b)] **(2)** A list of brands for which no manufacturer has registered; [and]

43 [(c)] **(3)** A list that identifies which manufacturers are in compliance with ORS 459A.305 to
 44 459A.355[.];

45 **(4) Electronics producer responsibility program plans submitted to the department under**

1 **ORS 459A.320;**

2 **(5) Revised plans submitted to the department under section 5 of this 2023 Act;**

3 **(6) Reports submitted to the department under ORS 459A.320; and**

4 *[(2) Review and approve manufacturer plans that comply with ORS 459A.320 and are submitted*
 5 *annually by manufacturers choosing to implement a manufacturer program for recycling covered elec-*
 6 *tronic devices.]*

7 *[(3)(a) For each calendar year, determine:]*

8 *[(A) The total weight in pounds of covered electronic devices, including orphan devices and com-*
 9 *puter peripherals, to be collected; and]*

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

13 *[(b) For each calendar year, determine each manufacturer's television market share and*
 14 *nontelevision market share as follows:]*

15 *[(A) A manufacturer's television market share shall be determined by dividing the total weight in*
 16 *pounds of televisions sold in this state under brands manufactured, sold or imported by the manufac-*
 17 *turer during the previous calendar year by the total weight in pounds of televisions sold in this state*
 18 *under all brands manufactured, sold or imported by all registered manufacturers during the previous*
 19 *calendar year.]*

20 *[(B) A manufacturer's nontelevision market share shall be determined by dividing the total weight*
 21 *in pounds of nontelevision devices sold in this state under brands manufactured, sold or imported by*
 22 *the manufacturer during the previous calendar year by the total weight in pounds of nontelevision de-*
 23 *vices sold in this state under all brands manufactured, sold or imported by all registered manufacturers*
 24 *during the previous calendar year.]*

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

31 *[(c) Determine the return share and return share by weight each calendar year for each manufac-*
 32 *turer as follows:]*

33 *[(A) A manufacturer's return share by weight shall be equal to the sum of the manufacturer's re-*
 34 *turn share by weight for televisions as calculated under subparagraph (B) of this paragraph and the*
 35 *manufacturer's return share by weight for nontelevision devices as calculated under subparagraph (C)*
 36 *of this paragraph.]*

37 *[(B) A manufacturer's return share by weight for televisions shall be equal to the product of the*
 38 *manufacturer's television market share as determined under paragraph (b)(A) of this subsection multi-*
 39 *plied by the total weight of television devices to be collected as determined under paragraph (a)(B) of*
 40 *this subsection.]*

41 *[(C) A manufacturer's return share by weight for nontelevision devices shall be equal to the product*
 42 *of the manufacturer's nontelevision market share as determined under paragraph (b)(B) of this sub-*
 43 *section multiplied by the total weight of nontelevision devices to be collected as determined under par-*
 44 *agraph (a)(B) of this subsection.]*

45 *[(D) A manufacturer's return share shall be equal to the quotient of the manufacturer's return*

1 *share by weight divided by the sum total of the return shares by weight for all manufacturers.]*

2 *[(d) By May 1 of each year, provide to each manufacturer that had a return share determined un-*
 3 *der this section its return share and its return share by weight for the following year.]*

4 *[(4) Establish a state contractor program for the collection, transportation and recycling of covered*
 5 *electronic devices from covered entities in this state. The state contractor program shall:]*

6 *[(a) To the extent practicable, use existing local collection, transportation and recycling*
 7 *infrastructure.]*

8 *[(b) Utilize environmentally sound management practices to collect, transport and recycle covered*
 9 *electronic devices.]*

10 *[(c) Provide for covered entities, free of charge, convenient and available collection services and*
 11 *sites for covered electronic devices in both rural and urban areas.]*

12 *[(d) Advertise and promote collection opportunities statewide and on a regular basis.]*

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

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

20 *[(A) The total weight of covered electronic devices, including orphan devices and computer periph-*
 21 *erals, collected from covered entities in this state by the state contractor program; and]*

22 *[(B) The total weight of each type of covered electronic device, including orphan devices and com-*
 23 *puter peripherals, collected from covered entities in this state by the state contractor program during*
 24 *the previous calendar year.]*

25 *[(5) Determine a manufacturer's annual registration fee for purposes of ORS 459A.315 (2). In de-*
 26 *termining a manufacturer's annual registration fee, the department may use national market data pro-*
 27 *rated for Oregon, retail or manufacturer data, consumer research or any other data from the previous*
 28 *calendar year, as determined by the department. The department may require a manufacturer to submit*
 29 *sales or other data regarding the number of covered electronic devices sold in this state by the man-*
 30 *ufacturer. A manufacturer must submit any data required by the department under this subsection in*
 31 *the format requested by the department.]*

32 *[(6) Determine the recycling fee to be paid under ORS 459A.325 by each manufacturer that partic-*
 33 *ipates in the state contractor program established pursuant to subsection (4) of this section. The de-*
 34 *partment shall determine the recycling fees based on the manufacturer's annual return share and return*
 35 *share by weight as determined under subsection (3) of this section.]*

36 *(7) [Maintain on its website] Information on collection opportunities for covered electronic de-*
 37 *VICES, including collection site locations and hours. The information must be made available in a*
 38 *printable format for retailers.*

39 *[(8) Report biennially to the Legislative Assembly on the operation of the statewide system for col-*
 40 *lection, transportation and recycling of covered electronic devices.]*

41 **SECTION 13. ORS 459A.315, 459A.322 and 459A.325 are repealed.**

42
 43 **(Conforming Amendments)**

44
 45 **SECTION 14. ORS 459.247 is amended to read:**

1 459.247. (1) No person shall dispose of and no disposal site operator shall knowingly accept for
 2 disposal the following types of solid waste at a solid waste disposal site:

- 3 (a) Discarded or abandoned vehicles;
- 4 (b) Discarded large home or industrial appliances;
- 5 (c) Used oil;
- 6 (d) Tires;
- 7 (e) Lead-acid batteries; or
- 8 (f) Covered electronic devices.

9 (2) As used in this section:

10 (a) "Covered electronic device" *[has the meaning given that term in ORS 459A.305, except that*
 11 *"covered electronic device" does not include a computer peripheral or a printer as those items are de-*
 12 *defined in ORS 459A.305; and]* **means:**

13 **(A) A computer monitor of any type having a viewable area greater than four inches**
 14 **measured diagonally;**

15 **(B) A desktop computer or a portable computer as defined in ORS 459A.305; or**

16 **(C) A television as defined in ORS 459A.305.**

17 (b) "Used oil" has the meaning given that term in ORS 459A.555.

18 (3) Nothing in this section shall prohibit a disposal site operator from accepting and storing, for
 19 purposes of recycling or recovering, any of the types of solid waste listed in subsection (1) of this
 20 section.

21 (4) The Environmental Quality Commission may postpone the prohibition under subsection (1)(f)
 22 of this section in any area of this state where the commission determines there is an inadequate
 23 system for the collection, transportation and recycling of covered electronic devices.

24 (5)(a) Each disposal site operator shall establish and implement, in accordance with any permit
 25 requirements established by the Department of Environmental Quality, a program reasonably de-
 26 signed to prevent acceptance of covered electronic devices for disposal. If an operator operates the
 27 disposal site in conformity with the program, the operator is presumed to have complied with the
 28 provisions of this section that prohibit knowingly accepting covered electronic devices for disposal.

29 (b) This section does not prevent the disposal site operator from accepting and storing, for
 30 purposes of recycling, reusing or refurbishing, covered electronic devices.

31 **SECTION 15.** ORS 459A.330 is amended to read:

32 459A.330. (1) Except as authorized in subsection (2) of this section, *[a manufacturer program, the*
 33 *state contractor program]* **an electronics producer responsibility program** or a collector partic-
 34 ipating in *[a manufacturer program or the state contractor program]* **an electronics producer re-**
 35 **sponsibility program** may not charge a fee to covered entities for the collection, transportation or
 36 recycling of covered electronic devices.

37 (2) A collector that provides a premium service to a covered entity may charge for the addi-
 38 tional cost of providing the premium service.

39 **SECTION 16.** ORS 459A.355 is amended to read:

40 459A.355. The Covered Electronic Devices Account is established separate and distinct from the
 41 General Fund. Interest earned by the account shall be credited to the account. Moneys in the ac-
 42 count are continuously appropriated to the Department of Environmental Quality and may be used
 43 only to pay the costs of **administering, implementing and enforcing** ORS 459A.305 to 459A.355 and
 44 enforcing the prohibition in ORS 459.247 relating to disposal of covered electronic devices.

45 **SECTION 17.** ORS 459A.360 is amended to read:

1 459A.360. (1) The Department of Environmental Quality shall evaluate any federal law that es-
 2 tablishes a national program for the collection and recycling of electronic devices.

3 (2) If the department determines that the federal law substantially meets or exceeds the re-
 4 quirements and intent of ORS 459A.305 to 459A.355, the department shall include information on the
 5 federal law in *[the next biennial report to the Legislative Assembly pursuant to ORS 459A.340.] a*
 6 **report to the Legislative Assembly in the manner provided by ORS 192.245.**

7
 8 **TRANSITIONAL PROVISIONS**

9
 10 **SECTION 18.** (1) Sections 5 to 8 and 10 of this 2023 Act, the amendments to ORS 459.247,
 11 459A.305, 459A.310, 459A.320, 459A.330, 459A.335, 459A.340, 459A.355 and 459A.360 by sections
 12 1 to 3, 11, 12 and 14 to 17 of this 2023 Act and the repeal of ORS 459A.315, 459A.322 and
 13 459A.325 by section 13 of this 2023 Act become operative on July 1, 2025.

14 (2) The Department of Environmental Quality and the Environmental Quality Commis-
 15 sion may take any action before the operative date specified in subsection (1) of this section
 16 that is necessary to enable the department and the commission to exercise, on and after the
 17 operative date specified in subsection (1) of this section, all the duties, functions and powers
 18 conferred on the department and the commission by sections 5 to 8 and 10 of this 2023 Act,
 19 the amendments to ORS 459.247, 459A.305, 459A.310, 459A.320, 459A.330, 459A.335, 459A.340,
 20 459A.355 and 459A.360 by sections 1 to 3, 11, 12 and 14 to 17 of this 2023 Act and the repeal
 21 of ORS 459A.315, 459A.322 and 459A.325 by section 13 of this 2023 Act.

22 **SECTION 19.** (1) Notwithstanding the operative date specified in section 18 of this 2023
 23 Act, sections 5 to 8 and 10 of this 2023 Act and the amendments to ORS 459A.305 and 459A.320
 24 by sections 1 and 3 of this 2023 Act apply to electronics producer responsibility program plans
 25 submitted to the Department of Environmental Quality pursuant to subsection (2) of this
 26 section.

27 (2) An electronics producer responsibility organization that plans to implement an elec-
 28 tronics producer responsibility program beginning July 1, 2025, must submit an electronics
 29 producer responsibility program plan to the department no later than November 1, 2024.

30 **SECTION 20.** (1) Notwithstanding ORS 459A.340 (3), for the period beginning January 1,
 31 2025, and ending June 30, 2025:

32 (a) The total weight of covered electronic devices to be collected shall be equal to one
 33 half of the total weight of covered electronic devices to be collected for the 2024 calendar
 34 year determined by the Department of Environmental Quality under ORS 459A.340 (3).

35 (b) A manufacturer’s television market share, nontelelevision market share, return share
 36 and return share by weight shall be equal to one half of the manufacturer’s television market
 37 share, nontelelevision market share, return share and return share by weight for the 2024
 38 calendar year, respectively, as determined by the department under ORS 459A.340 (3).

39 (2) Notwithstanding ORS 459A.315 (1), on or after October 1, 2023, and before January 1,
 40 2024, a manufacturer of covered electronic devices sold or offered for sale in this state shall
 41 register with the department for the period beginning January 1, 2024, and ending June 30,
 42 2025. The registration shall be on a form provided by the department and shall include the
 43 information required under ORS 459A.315 (1)(a) to (c).

44 (3) Notwithstanding ORS 459A.315 (2) and 459A.340 (5), in lieu of the annual registration
 45 fee to be paid by manufacturers of covered electronic devices not later than July 1, 2024, a

1 manufacturer of covered electronic devices shall pay to the department a fee reasonably
2 calculated by the department to cover the costs to the department of implementing ORS
3 459A.305 to 459A.355, excluding costs incurred under ORS 459A.340 (4), for the period begin-
4 ning January 1, 2024, and ending June 30, 2025. In determining the fee under this subsection,
5 the department may use data, or require a manufacturer to submit data, in the same manner
6 as provided by ORS 459A.340 (5). A manufacturer shall pay the fee determined under this
7 subsection no later than July 1, 2024.

8 (4)(a) Notwithstanding ORS 459A.340 (2), the department may extend the approval of
9 manufacturer plan previously approved by the department for the 2024 calendar year so that
10 a manufacturer may implement the manufacturer program, as provided in the previously
11 approved plan, for the period beginning January 1, 2025, and ending June 30, 2025.

12 (b) Notwithstanding ORS 459A.320 (1), a manufacturer that has a program plan approval
13 extended under paragraph (a) of this subsection is not required to submit an additional plan
14 for approval for any part of the 2025 calendar year.

15 (5) Notwithstanding ORS 459A.325 and 459A.340 (6), the recycling fee under ORS 459A.325
16 that is to be paid no later than September 1, 2024, by manufacturers participating in the
17 state contractor program shall be based on each manufacturer's return share and return
18 share by weight as determined under subsection (1) of this section and calculated by the
19 department to cover the costs of collecting, transporting and recycling the manufacturer's
20 return share of covered electronic devices for January 1, 2025, to June 30, 2025.

21 **SECTION 21.** (1) Notwithstanding the amendments to ORS 459A.320 by section 3 of this
22 2023 Act:

23 (a) No later than October 1, 2025, a manufacturer choosing to implement a manufacturer
24 program for January 1, 2025, to June 30, 2025, shall provide a report to the Department of
25 Environmental Quality that:

26 (A) Includes the total weight of covered electronic devices, including orphan devices and
27 computer peripherals, collected from covered entities in this state by the manufacturer from
28 January 1, 2025, to June 30, 2025;

29 (B) Includes the total weight of each type of covered electronic device, including orphan
30 devices and computer peripherals, collected from covered entities in this state by the man-
31 ufacturer from January 1, 2025, to June 30, 2025; and

32 (C) Details how the manufacturer plan was implemented from January 1, 2025, to June
33 30, 2025.

34 (b) By July 1, 2025, a manufacturer that does not meet its return share by weight for the
35 2024 calendar year shall pay the department for the amount not achieved at a rate deter-
36 mined by the department to be equivalent to the amount the manufacturer would have paid,
37 plus 10 percent, to be part of the state contractor program under ORS 459A.340.

38 (c) By January 1, 2026, a manufacturer that does not meet its return share by weight for
39 the period beginning January 1, 2025, and ending June 30, 2025, shall pay the department for
40 the amount not achieved at a rate determined by the department to be equivalent to the
41 amount the manufacturer would have paid, plus 10 percent, to be part of the state contractor
42 program under ORS 459A.340.

43 (2) Notwithstanding the amendments to ORS 459A.340 by section 12 of this 2023 Act, no
44 later than October 1, 2025, the state contractor program shall provide a report to the de-
45 partment that:

1 (a) Includes the total weight of covered electronic devices, including orphan devices and
2 computer peripherals, collected from covered entities in this state by the state contractor
3 program from January 1, 2025, to June 30, 2025; and

4 (b) Includes the total weight of each type of covered electronic device, including orphan
5 devices and computer peripherals, collected from covered entities in this state by the state
6 contractor program from January 1, 2025, to June 30, 2025.

7
8 **CAPTIONS**

9
10 **SECTION 22.** The unit captions used in this 2023 Act are provided only for the conven-
11 ience of the reader and do not become part of the statutory law of this state or express any
12 legislative intent in the enactment of this 2023 Act.

13
14 **EFFECTIVE DATE**

15
16 **SECTION 23.** This 2023 Act takes effect on the 91st day after the date on which the 2023
17 regular session of the Eighty-second Legislative Assembly adjourns sine die.