

HOUSE No. 00252

The Commonwealth of Massachusetts

PRESENTED BY:

Frank I. Smizik

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to require producer responsibility for collection, reuse and recycling of discarded electronic products.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Brian Ashe</i>	<i>2nd Hampden</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Joyce A. Spiliotis</i>	<i>12th Essex</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>

<i>Linda Dean Campbell</i>	<i>15th Essex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Geraldo Alicea</i>	<i>6th Worcester</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Geraldine Creedon</i>	<i>11th Plymouth</i>
<i>Jay Kaufman</i>	<i>15th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>

HOUSE No. 00252

By Mr. Smizik of Brookline, petition (accompanied by Bill, House, No. 00252) of Frank I. Smizik and others for legislation to require producer responsibility for collection reuse and recycling of discarded electronic products.. Joint Committee on Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 4374 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to require producer responsibility for collection, reuse and recycling of discarded electronic products.

□.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Be it enacted by the Senate and House of Representatives in General Court assembled, and by
- 2 the authority of the same, as follows:
- 3 SECTION 1. The General Laws are hereby amended by inserting after chapter 21N the
- 4 following chapter:-
- 5 CHAPTER 21O.
- 6 RECYCLING OF DISCARDED ELECTRONIC PRODUCTS.

7 Section 1. As used in this chapter the following words shall, unless the context clearly requires
8 otherwise, have the following meanings:

9 "Additionally covered electronic product" means any of the following electronic products taken
10 out of service from a person in this State regardless of purchase location: printers; stand-alone
11 facsimile machine; video game console, video cassette recorder/player, digital video disk player,
12 or similar video device; zip drive, external hard drive, or similar storage device; or scanner. To
13 the extent allowed under federal and state laws and regulations, an additionally covered eligible
14 electronic product that is being collected, recycled, or processed for reuse is not considered to be
15 hazardous waste, household waste, solid waste, or special waste. The term does not include a
16 covered television product or a covered computer product.

17 "Collection", the aggregation of covered electronic products from households, municipalities, the
18 Commonwealth and any other political subdivision, and schools, including the accumulation of
19 covered electronic products at handling facilities, transfer stations, and solid waste facilities,
20 including all the activities up to the time the covered electronic products are collected by a
21 processor.

22 "Collector", a person accepting covered electronic products from households, municipalities, the
23 Commonwealth and any other political subdivision, and schools.

24 "Collector reimbursement", the minimum per pound rate, as established by the department, paid
25 by a processor to a collector for all covered electronic products collected.

26 "Computer", an electronic, magnetic, optical, electrochemical, or other high speed data
27 processing device performing logical, arithmetic, or storage functions, including a laptop or a
28 combined computer central processing unit and monitor; provided, however, that an automated

29 typewriter or typesetter, a portable handheld calculator, a portable digital assistant, or other
30 similar device shall not be considered a computer.

31 “Covered computer product” means a desktop or notebook computer, netbook, or computer
32 monitor, marketed and intended for use by a person, but does not include a covered television
33 device.

34 “Covered electronic product” means a covered computer product, a covered television product,
35 or additionally covered electronic product collected for reuse or recycling by collectors and
36 processors eligible for collector reimbursement and processor reimbursement through the
37 producer reimbursement system. “Covered electronic product,” “covered computer product”,
38 “covered television product,” or “additionally covered electronic product” do not include any of
39 the following:

40 (i) A covered electronic product that is a part of a motor vehicle or any component part of a
41 motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including
42 replacement parts for use in a motor vehicle.

43 (ii) A covered electronic product that is functionally or physically a part of, or connected to, or
44 integrated within equipment or a system designed and intended for use in an industrial,
45 governmental, commercial, research and development, or medical setting, including but not
46 limited to diagnostic, monitoring, control or medical products (as defined under the Federal
47 Food, Drug, and Cosmetic Act), or equipment used for security, sensing, monitoring, anti-
48 terrorism, emergency services purposes or equipment designed and intended primarily for use by
49 professional users.

50 (iii) A covered electronic product that is contained within a clothes washer, clothes dryer,
51 refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher,
52 room air conditioner, dehumidifier, air purifier, or exercise equipment.

53 (iv) Telephones of any type, including mobile phones.

54 (v) A personal digital assistant (PDA).

55 (vi) Global positioning systems (GPS).

56 “Covered Television Product” means any electronic product that contains a tuner that locks on to
57 a selected carrier frequency and is capable of receiving and displaying television or video
58 programming via broadcast, cable, or satellite, including, without limitation, any direct view or
59 projection television with a viewable screen of 9 inches or larger whose display technology is
60 based on cathode ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP),
61 liquid crystal on silicon (LCOS), silicon crystal reflective display (SXR), light emitting diode
62 (LED), or similar technology marketed and intended for use by a person primarily for personal
63 purposes. The term does not include a covered computer product or additionally covered
64 electronic product.

65 “Department”, the department of environmental protection.

66 “Desktop computer” means an electronic, magnetic, optical, electrochemical, or other high-speed
67 data processing device performing logical, arithmetic, and storage functions for general purpose
68 needs which are met through interaction with a number of software programs contained therein,
69 which is not designed to exclusively perform a specific type of limited or specialized application.
70 Human interface with a desktop computer is achieved through a standalone keyboard, stand-

71 alone monitor or other display unit, and a stand-alone mouse or other pointing device, and is
72 designed for a single user. A desktop computer has a main unit that is intended to be persistently
73 located in a single location, often on a desk or on the floor.

74 “Market share”, a television producer’s national sales of televisions expressed as a percentage of
75 the total of all television producers’ national sales based on the best available public data.

76 “Monitor”, a video display device without a tuner that can display pictures and sound and is used
77 with a computer.

78 “Netbook” means an electronic, magnetic, optical, electrochemical, or other high-speed data
79 processing device performing logical, arithmetic, or storage functions for general purpose needs
80 which are met through interaction with a number of software programs contained therein, which
81 is not designed to exclusively perform a specific type of limited or specialized application.
82 Human interface with a netbook is achieved through a keyboard, video display greater than 4" in
83 size, and mouse or other pointing device, all of which are contained within the construction of
84 the unit which comprises the netbook, and can be carried as one unit by an individual. Netbook
85 can use external, internal, or batteries for a power source. Netbook does not include a portable
86 handheld calculator, or a portable digital assistant or similar specialized device.

87 “Notebook computer” means an electronic, magnetic, optical, electrochemical, or other high-
88 speed data processing device performing logical, arithmetic, or storage functions for general
89 purpose needs which are met through interaction with a number of software programs contained
90 therein, which is not designed to exclusively perform a specific type of limited or specialized
91 application. Human interface with a notebook computer is achieved through a keyboard, video
92 display greater than 4" in size, and mouse or other pointing device, all of which are contained

93 within the construction of the unit which comprises the notebook computer, and can be carried as
94 one unit by an individual. Supplemental standalone interface devices typically can also be
95 attached to the notebook computer. Notebook computers can use external, internal, or batteries
96 for a power source. Notebook computer does not include a portable handheld calculator, or a
97 portable digital assistant or similar specialized device. A notebook computer is sometimes
98 referred to as a laptop computer.

99 “Orphan waste”, a covered electronic product, the producer of which cannot be identified or is
100 no longer in business and has no successor in interest.

101 “Person”, a natural person, corporation, association, partnership, government body or other legal
102 entity.

103 “Printer” means desktop printers, multifunction printer copiers, and printer/fax combinations
104 taken out of service from a person that are designed to reside on a work surface, and include
105 various print technologies, including without limitation laser and LED (electrographic), ink jet,
106 dot matrix, thermal, and digital sublimation, and "multi-function" or "all-in-one" devices that
107 perform different tasks, including without limitation copying, scanning, faxing, and printing.
108 Printers do not include floor-standing printers, printers with optional floor stand, point of sale
109 (POS) receipt printers, household printers such as a calculator with printing capabilities or label
110 makers, or non-stand-alone printers that are embedded into products that are not CEDs

111 “Processor”, a person registered with the department to receive electronic products from
112 collectors for the purpose of sorting, weighing and reusing or recycling or shipping offsite for
113 reuse or recycling in accordance with minimum performance requirements established by the
114 department.

115 “Processor reimbursement”, the minimum per pound rate, as established by the department, paid
116 by a producer to a processor for the producer’s covered electronic products and the producer’s
117 share of orphan waste as determined by the department.

118 “Producer”, any person who: (a) has a physical presence and legal assets in the United States of
119 America and (1) manufactures or manufactured a covered electronic product under its own
120 brand or label; (2) sells or sold under its own brand or label a covered electronic product
121 produced by other suppliers; or (3) owns a brand that it licenses or licensed to another person for
122 use on a covered electronic product; or (b) imports or imported a covered electronic product into
123 the United States that was manufactured by a person without a presence in the United States of
124 America; (c) sells at retail a covered electronic product acquired from an importer that is the
125 manufacturer as described in subsection (b) and elects to register in lieu of the importer; or (d)
126 assumes the responsibilities and obligations of a producer under this Act.

127 “Program year”, a full calendar year beginning on or after January 1, 2013.

128 “Recycling”, to recover materials or by-products which are: (a) reused; (b) used as an ingredient
129 or a feedstock in an industrial or manufacturing process to make a marketable product; or (c)
130 used in a particular function or application as an effective substitute for a commercial product or
131 commodity; provided, however, that recycle shall not mean to recover energy from the
132 combustion of a material.

133 “Retailer”, shall include, but shall not be limited to, a person or a producer that sells new covered
134 electronic products directly to a person through any means including, without limitation,
135 transactions conducted through sales outlets and catalogs, but not including wholesale
136 transactions with a distributor or other retailer.

137 “Return share”, a percentage of covered electronic products other than televisions collected
138 through processors as calculated by dividing the total weight of covered electronic products other
139 than televisions of that producer’s brands by the total weight of covered electronic products other
140 than televisions for all producers’ non-orphaned brands.

141 “Reuse”, any operation by which an electronic product or component of an electronic product
142 changes ownership but retains its form and function and is used for the same purpose for which it
143 was originally purchased.

144 “Sale” or “sell”, any transfer for valuable consideration of title including, but not limited to,
145 transactions conducted through sales outlets, or through catalogs, and excluding commercial
146 financing or leasing.

147 “Television”, any telecommunication system device that can broadcast or receive moving
148 pictures and sound over a distance and includes a television tuner or a display device peripheral
149 to a computer that contains a television tuner.

150 Section 2. No person shall engage in business as a producer unless he is registered with the
151 department pursuant to section 3.

152 Section 3. (a) Every producer seeking to engage in business in the commonwealth shall file an
153 application, accompanied by the producer registration fee, with the department requesting
154 registration as a producer. Said application shall be made on a form to be furnished by the
155 department, and shall include, without limitation, the following information: (1) the name and
156 contact information of the applicant; (2) the applicant's brand names of covered electronic
157 products, including all brand names sold in the commonwealth in the past, all brand names
158 currently being sold in the commonwealth, and all brand names for which the applicant is legally

159 responsible; (3) the method or methods of sale used in the commonwealth; (4) a baseline or a set
160 of baselines that describe any efforts to design covered electronic products for reuse or recycling
161 and goals and plans for further increasing design for reuse and recycling; and (5) a description of
162 any collection, consolidation or processing services utilized to recover, reuse, or recycle the
163 applicant's products. The department shall, within 60 days, review the application for
164 registration. If said application satisfies the requirements of this section, the department shall
165 register said applicant as a producer and shall forthwith mail to him a certificate to that effect. If
166 said application fails to satisfy the requirements of this section the producer shall, within 30
167 days, file with the department a revised application addressing the requirements noted by the
168 department.

169 (b) The department may keep information submitted pursuant to this section confidential as
170 provided by section 10 of chapter 66 of the General Laws. The department will publish on its
171 website the following information: (1) the name and contact information of the producer
172 submitting the application and (2) the producer's brand names of covered electronic products.

173 Section 4. (a) Registered producers shall register with the department for a specified registration
174 period. Such applications shall be submitted to the department by the date specified by the
175 department together with a renewal fee as shall be established by the department. After
176 verification of the facts stated on the application, the department shall issue a registration. Any
177 holder of a registration who fails to file a renewal application within 60 days after notification by
178 the department that his registration has expired shall, prior to engaging in business as a producer
179 within the commonwealth, be required to register anew and pay a late fee in addition to said
180 renewal fee.

181 (b) The department shall use twelve months as a specified registration period for the first three
182 registration periods. After three registration periods, the department may allow producers to
183 register for a period not to exceed thirty-six months.

184 Section 5. (a) Producers of electronic products shall reimburse collectors for their share of
185 product received at the processor.

186 (b) A producer who has sold or who sells covered electronic products other than televisions in
187 the commonwealth shall bear the financial responsibility for the collection, transportation, and
188 reuse or recycling of said covered electronic products received by processors, including their
189 return share of orphan waste as determined by the department.

190 (c) A producer of televisions shall have the financial responsibility for the collection,
191 transportation and reuse or recycling of televisions discarded in the commonwealth, based on the
192 television manufacturer's market share.

193 (d) A producer may also collect its covered electronic products for reuse or recycling by
194 establishing a collection program, either individually or in cooperation with other producers, to
195 collect these discarded products as established in this chapter. A producer establishing an
196 independent collection program for reuse or recycling either individually or in cooperation with
197 other producers shall recover 1 or more electronic products. A producer establishing an
198 independent recycling program either individually or in cooperation with other producers shall
199 meet either of the following criteria to be able to continue the program. In order for an
200 independent recycling program to maintain good standing with the department, the program must
201 either of the following:

202 (i) include convenient, staffed collection sites in not less than eight counties in the
203 commonwealth, at least one collection site within every municipality within the commonwealth
204 with a population of at least 50,000, and be open for collections for no less than 160 hours per
205 year. A collection site for a county may be the same as a collection site for a city in the county.

206 (ii) collect no less than 100,000 pounds, or higher as determined by the department, of covered
207 electronic products cumulatively from all collections sites or collection methods.

208 The department shall provide a report no later than December 31, 2013, to the Joint Committee
209 on Environment, Natural Resources, and Agriculture and the House and Senate Committees on
210 Ways and Means on independent collection programs. This report shall include, but not be
211 limited to, the effectiveness of the independent collection program requirements, independent
212 collection program compliance, and collection rates of independent programs.

213 A producer establishing an independent recycling program either individually or in cooperation
214 with other producers will register as a collector pursuant to section 7 of this chapter or a
215 processor pursuant to section 10 of this chapter; however, an additional registration fee will not
216 be required.

217 A producer establishing an independent recycling program either individually or in cooperation
218 with other producers shall provide information specified by the department describing the
219 locations for the collection or return of the producer's product, including information on
220 opportunities and locations for donation of the product for reuse via, without limitation: (1) a
221 toll-free telephone number; (2) a website; (3) information included in or on the packaging; or (4)
222 written information provided at the point of sale.

223 A producer establishing an independent collection program shall submit an annual report to
224 department that includes at a minimum the following information for the previous program year
225 as well as any additional information required by the department:

226 (1) distinguishing the total weight of each type of covered electronic product collected for
227 recycling;

228 (2) detailing the total number of items by each type of covered electronic product collected for
229 reuse or refurbishment;

230 (3) a description of the plan's education, outreach, or other marketing efforts to promote
231 collection of covered electronic products;

232 (4) a description of management practices to transport and recycle discarded covered electronic
233 products; and

234 (5) any additional information deemed necessary by the department.

235 A producer establishing an independent collection program for reuse or recycling either
236 individually or in cooperation with other producers shall weigh the covered electronic products
237 collected and shall annually submit a statement certifying to the department the total weight of
238 electronic products received and the weight of orphan waste received in the preceding program
239 year.

240 The department, in determining the producer's return share, shall take into account electronic
241 products voluntarily collected by the producer.

242 A producer establishing an independent collection program for reuse or recycling either
243 individually or in cooperation with other producers shall not charge a fee for collecting,
244 transporting or recycling electronic products.

245 A producer establishing an independent television recycling program either individually or in
246 cooperation with other producers that collects in excess of its market share or cumulative market
247 share allocation assigned by the Department will receive a one pound credit for each pound by
248 which they exceed the allocation. This credit may be used to count toward the market share
249 allocation during the following three program years or may be transferred for consideration to
250 another independent collection program for another producer to count toward its market share
251 allocation during the next three program years. The credits earned under this clause may only
252 be used toward no more than twenty-five percent of a producer's market share allocation during
253 any given program year. The total number of pounds processed by each producer, including
254 credits that would be carried over, must be included in the report to the Department and used by
255 the Department in calculating the target for the following program year.

256 Section 6. No person shall engage in business as a collector unless he is registered with the
257 department pursuant to section 7.

258 Section 7. (a) Every collector seeking to engage in business in the commonwealth shall file an
259 application, accompanied by the collector registration fee, with the department requesting
260 registration as a collector. Said application shall be made on a form to be furnished by the
261 department, and shall include, without limitation, the following information: (1) the name; (2)
262 the address; (3) the telephone number; and (4) the location of the business. The department shall,
263 within 60 days, review the application for registration. If said application satisfies the

264 requirements of this section, the department shall register said applicant as a collector and shall
265 forthwith mail to him a certificate to that effect. If said application fails to satisfy the
266 requirements of this section the collector shall, within 30 days, file with the department a revised
267 application addressing the requirements noted by the department.

268 (b) If a municipality applies to be a collector under this statute, the statute will apply to them
269 except no registration or renewal fee will be required.

270 (c) A collector shall: (1) contract with a registered processor or processors to receive the covered
271 electronic products collected by the collector; (2) make information available to the public that
272 describes where and how to return, recycle, and dispose of covered electronic products; (3)
273 accept all covered electronic products and ensure that said products are transported by or
274 delivered to a registered processor; and (4) demonstrate compliance with the department rules
275 and regulations and the United States Environmental Protection Agency's Responsible Recycling
276 Guidelines for Materials Management as issued and available on the United States
277 Environmental Protection Agency's Internet website in addition to any other requirements
278 mandated by federal or state law. A collector may limit the number of covered electronic
279 products delivered at a given time by any customer to no more than 5.

280 (d) A collector shall not: (1) charge a fee to persons for the collection or recycling of covered
281 electronic products; or (2) knowingly accept covered electronic products imported into the
282 commonwealth for the purpose of recycling or discard.

283 (e) Only an entity registered as a collector with the department may act as a collector in a plan.
284 All covered electronic products received by a registered collector must be submitted to a plan.
285 Fully functioning computers that are received by a registered collector in working order may be

286 sold or donated as whole products by the collector for reuse. Computers that require repair to
287 make them a fully functioning unit may only be repaired on-site at the collector's place of
288 business by the registered collector for reuse according to its original purpose.

289 (f) Registered collectors may use whole parts amassed from collected computers or new parts for
290 making repairs as long as there is a part-for-part exchange with nonfunctioning computers
291 submitted to a plan.

292 (g) Registered collectors may not include computers that are dispersed for reuse in the weight
293 totals for compensation by the plan.

294 (h) Registered collectors must maintain a record of computers sold or donated by the collector
295 for a period of three years.

296 (i) Registered collectors must display a notice at the point of collection that computers received
297 by the collector may be repaired and sold or donated as a fully functioning computer rather than
298 submitted to a processor for recycling

299 (j) The department may conduct site visits of all registered collectors that reuse or refurbish
300 computers and who have an agreement with the department, collector, or producer to provide
301 collection services. The department may, for cause, review records and conduct investigations
302 regarding a violation of this section, including but not limited to Section 14 (d) or (e).

303 Section 8. Collectors shall register with the department every 3 years. Such applications shall be
304 submitted to the department by the date specified by the department together with a renewal fee
305 as shall be established by the department. After verification of the facts stated on the application,
306 the department shall issue a registration, which shall expire in 3 years. Any holder of a

307 registration who fails to file a renewal application within 60 days after notification by the
308 department that his registration has expired shall, prior to engaging in business as a collector
309 within the commonwealth, be required to register anew and pay a late fee in addition to said
310 renewal fee.

311 Section 9. No person shall engage in business as a processor unless he is registered with the
312 department pursuant to section 10.

313 Section 10. (a) Every processor seeking to engage in business in the commonwealth shall file an
314 application, accompanied by appropriate processor registration fee, with the department
315 requesting registration as a processor. Said application shall be made on a form to be furnished
316 by the department, and shall include, without limitation, the following information: (1) the name;
317 (2) the address; (3) the telephone number; and (4) the location of the business of the processor's
318 business. The department shall, within 60 days, review the application for registration. If said
319 application satisfies the requirements of this section, the department shall register said applicant
320 as a processor and shall forthwith mail to him a certificate to that effect. If said application fails
321 to satisfy the requirements of this section the processor shall, within 30 days, file with the
322 department a revised application addressing the requirements noted by the department.

323 (b) A processor shall: (1) be responsible for sorting all covered electronic products received from
324 a participating collector with whom the processor has a contract; (2) weigh the total amount of
325 covered electronic products received from a participating collector and reimburse said collector;
326 provided, however, that said collector reimbursement shall be due within 30 days of pick-up; (3)
327 sort, by producer, and weigh all covered electronic products other than televisions received from
328 collectors; (4) weigh all televisions received from collectors; (5) either repair, refurbish,

329 remanufacture, or recycle on-site or ship covered electronic products offsite for reuse or
330 recycling in accordance with the minimum performance requirements established by the
331 department; (6) demonstrate compliance with the department rules and regulations and the
332 United States Environmental Protection Agency's Responsible Recycling Guidelines for
333 Materials Management as issued and available on the United States Environmental Protection
334 Agency's Internet website in addition to any other requirements mandated by federal or state
335 law; (7) submit an invoice for producer reimbursement to each producers whose waste the
336 processor has handled; and (8) annually submit a report to the department which shall include
337 without limitation: (i) the total aggregate weight of covered electronic products processed
338 pursuant to this chapter in the previous program year; (ii) the weight, differentiated by producer,
339 of covered electronic products processed pursuant to this chapter in the previous program year;
340 (iii) the total amount of orphan waste processed pursuant to this chapter in the previous program
341 year; and (iv) any other information to help track, monitor and evaluate the management of
342 covered electronic products, as determined by the department.

343 (c) A processor shall not charge a fee for accepting, sorting, weighing, processing for reuse or
344 recycling a covered electronic product for which the processor receives compensation under the
345 provisions of this section.

346 Section 11. Processors shall register with the department every 3 years. Such application shall be
347 submitted to the department by the date specified by the department together with a renewal fee
348 as shall be established by the department. After verification of the facts stated on the application,
349 the department shall issue a registration, which shall expire in 3 years. Any holder of a
350 registration who fails to file a renewal application within 60 days after notification by the
351 department that his registration has expired shall, prior to engaging in business as a processor

352 within the commonwealth, be required to register anew and pay a late fee in addition to said
353 renewal fee.

354 Section 12. The fee for a collector registration, a processor registration and a producer
355 registration, or for any annual renewal thereof, shall be determined every three years by the
356 department, but in no case shall any registration or renewal fee exceed \$5000.

357 Section 13. (a) The department shall annually: (1) determine the return share for each program
358 year for each producer of electronic products other than televisions by dividing the weight of
359 covered electronic products identified for each producer by the total weight of covered electronic
360 products identified for all producers; provided further, that said calculation shall be based on the
361 reports generated by processors of covered electronic products in the commonwealth; provided
362 further, that for the first program year, the return share of covered electronic products identified
363 for each producer shall be based on the best available public return share data from the United
364 States, including data from other states, for covered electronic products from persons; provided
365 further, that for the second and subsequent program years, the return share of covered electronic
366 products identified for each producer shall be based on the previous year's reported data as
367 described herein; and provided further, that the department shall use the return share for each
368 producer to allocate financial responsibility for orphan waste; (2) determine, based on each
369 producer's return share, each producer's share of responsibility for the orphan waste collected in
370 the commonwealth; provided, however, that each producer's return share of orphan waste shall
371 be equivalent to its percentage of return share for non-orphan covered electronic products,
372 multiplied by the total amount of orphan waste collected in the program year; and provided
373 further, that the department, in determining the producer's orphan waste share, may take into
374 account electronic products, including orphan waste, voluntarily collected by the producer; (3)

375 determine the market share allocation for each television producer by determining the total
376 weight of televisions recycled in the previous year, multiplied by the market share for that
377 producer; provided, however, that in the first program year, the market share identified for each
378 television producer shall be based on the best available data regarding the total number of
379 televisions sold in the commonwealth for the previous calendar year; (4) maintain a list of
380 producers registered pursuant to this chapter; and (5) conduct periodic audits of processors and
381 collectors at a frequency determined by the department, to assure accuracy of reporting and
382 billing.

383 (b) The department shall adopt and may from time to time amend rules and regulations, and the
384 commissioner may issue orders, to enforce the provisions of this chapter. Said regulations shall
385 include, but not be limited to, establishing, as a maximum number not higher than twelve, the
386 number of times a year payment from producers to collectors and processors be made,
387 adjudicatory procedures for denied revised applications and minimum performance requirements
388 for collection and processing of covered electronic products. Any person, including any political
389 subdivision of the commonwealth who violates this chapter, or any order issued pursuant thereto,
390 or any rule or regulation promulgated hereunder shall be subject to a fine of not more than
391 twenty-five thousand dollars for each such violation. Each day each such violation occurs or
392 continues shall be deemed a separate offense. These penalties shall be in addition to any other
393 penalties that may be prescribed by law.

394 (c) Beginning one year after this act takes effect and annually thereafter, the department shall
395 submit a report to the House Committee on Ways and Means, the Senate Committee on Ways
396 and Means, and the Joint Committee on Environment, Natural Resources and Agriculture that
397 includes information regarding the previous program year. The information shall include, but is

398 not limited to, (1) the total administrative cost to the state government, (2) the total
399 administrative cost to local governments, (3) a description of the incentive for manufacturer
400 collection, and (4) a description of the education, outreach, or other marketing efforts conducted
401 by the state or local governments to promote collection of covered electronic products.

402 Section 14. (a) No person shall sell covered electronic products from producers not registered
403 pursuant to this chapter. A retailer shall not be in violation of this subsection if, at time of
404 purchase from producer, the producer was not in violation of this Chapter. This subsection shall
405 not apply to used electronic products that are reused.

406 (b) No person shall offer for sale an electronic product unless a visible, permanent label clearly
407 identifying the producer of that product is affixed to said electronic product.

408 (c) All retailers shall provide information describing where and how to recycle an electronic
409 product provided by the producer pursuant to this act.

410 (d) No person shall knowingly dispose of any electronic product except as provided in this
411 chapter.

412 (e) No person shall import a covered electronic product into the commonwealth with the intent of
413 recycling or discarding said product; provided further, that any covered electronic product so
414 imported shall not be eligible for reimbursement under the provisions of this chapter.

415 Section 15. The department shall be charged with the enforcement of sections 1 to 14, inclusive.

416 If any person refuses to obey a decision of the department the attorney general shall, upon
417 request of the department, file a petition for the enforcement of such decision in the superior
418 court for Suffolk County or for the county in which the defendant resides or has a place of

419 business. After hearing, the court shall order the enforcement of such decision or any part
420 thereof, if legally and properly made by the department.

421 Section 16. The department may participate in the establishment of a regional multistate
422 organization or compact to assist in carrying out the requirements of this chapter.

423 Section 17. (a) There shall be in the Department an advisory commission, chaired by the
424 Commissioner of the Department or his designee, for electronic waste. The commission shall
425 include the Senate chair of the Joint Committee on Environment, Natural Resources, and
426 Agriculture or his designee, the House chair of the Joint Committee on Environment, Natural
427 Resources, and Agriculture or his designee. The advisory commission shall also include the
428 following individuals to be appointed by the Secretary of Energy and Environmental Affairs: one
429 individual representing covered television product manufacturers, one individual representing
430 processors of covered electronic products, one individual representing a trade association of
431 covered computer product manufacturers or covered television product manufacturers , one
432 individual representing covered computer manufacturers, one individual representing retailers of
433 covered electronic products and one individual representing a statewide conservation
434 organization.

435 (b) Appointments to the advisory commission shall be made not later than 30 days after the
436 effective date of this statute. If a vacancy occurs on the commission, the vacancy shall be filled
437 within 30 days.

438 (c) Said advisory commission shall have the following duties: (1) It shall advise the Department
439 on policy and program development under this section, specifically regarding performance
440 standards; (2) It shall review the registration and renewal fees for producers, collectors and

441 processors, and shall make recommendations to the commissioner relative thereto; and (3) It
442 shall make recommendations to the Joint Committee on Environment, Natural Resources, and
443 Agriculture on recommendations of amending the definition of electronic product under this
444 statute to cover other electronic products, including but not limited to medical equipment.

445 (d) The advisory commission shall meet at least four times a year and shall convene special
446 meetings at the call of the Commissioner. A written record of all meetings of the committee
447 shall be maintained by the Department. Members of the commission shall serve without
448 compensation. The members of the commission representing the Department or the General
449 Court shall serve without additional compensation.

450 SECTION 2. Notwithstanding any general or special law to the contrary and unless otherwise
451 specified herein, this act shall take effect January 1, 2012.