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LC02044

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

A N A C T

RELATING TO HEALTH AND SAFETY - ELECTRONIC WASTE PREVENTION, REUSE,
AND RECYCLING ACT

Introduced By: Representatives Handy, Long, Lewiss, Ajello, and Fellela

Date Introduced: February 26, 2008

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-24.10-1 and 23-24.10-3 of the General Laws in Chapter 23-
2 24.10 entitled "Electronic Waste Prevention, Reuse and Recycling Act" are hereby amended to
3 read as follows:

4 **23-24.10-1. Purpose.** -- The purposes of this act are:

5 (1) To ~~study the establishment of a covered electronic product~~ establish a manufacturer
6 financed system for the collection, recycling, and reuse program for covered products in Rhode
7 Island;

8 (2) To develop a comprehensive strategy, with the participation of state agencies,
9 producers, processors and consumers, for waste prevention and reduction of covered electronic
10 products in the state, which addresses the collection, recycling and reuse of covered electronic
11 products from all covered electronic product generators in the state and that ensures the safe and
12 environmentally sound handling, reuse and recycling of covered electronic products;

13 (3) To promote the development of state infrastructure for the reuse and recycling of
14 used electronics;

15 (4) To eliminate waste generated in the state from covered electronic products from
16 landfill and incinerator disposal; and

17 (5) To encourage the design of covered electronic products that are less toxic, more
18 durable and more recyclable.

1 **23-24.10-3. Definitions.** -- (a) For the purposes of this chapter:

2 (1) "Department" means the department of environmental management.

3 (2) "Covered electronic products" means:

4 (i) Desktop computers (including central processing unit or CPU);

5 (ii) Computer monitors, including CRT monitors and flat panel monitors;

6 (iii) Portable computers (laptops);

7 (iv) Combination units (CPUs with monitors);

8 (v) CRT-based televisions and non-CRT-based televisions; and

9 (vi) Television (including plasma and LCD), or any similar video display device with a
10 screen greater than four (4) inches diagonally and that contains a circuit board.

11 (3) "Covered electronic product generator" includes any person that has a covered
12 electronic product within its possession.

13 (4) "Person" means an individual, trust, firm, joint stock company, corporation
14 (including a government corporation), partnership, association, the federal government or any
15 agency or subdivision thereof, a state, municipality, commission, political subdivision of a state,
16 or any interstate body.

17 (5) "Computer" means a machine designed for manipulating data according to a list of
18 instructions known as a program, and are generally known as desktops, laptops, and portable
19 computers. "Computer" does not include the following:

20 (a) Computer servers marketed to professional users; or

21 (b) Retail store terminals or cash registers, used at customer checkout in the retail
22 industry.

23 (6) "Monitor" means a video display device without a tuner that can display pictures and
24 sound and is used with a computer.

25 (7) "Video display devices" means and includes units capable of presenting images
26 electronically on a screen, with a viewable area greater than four (4) inches when measured
27 diagonally, viewed by the user and may include cathode ray tubes, flat panel computer monitors,
28 plasma displays, liquid crystal displays, rear and front enclosed projection devices, and other
29 similar displays that exist or may be developed.

30 (8) "Television" means any telecommunication system device that can broadcast or
31 receive moving pictures and sound over a distance and includes a television tuner or a display
32 device peripheral to a computer that contains a television tuner.

33 (9) "Retailer" means a person who sells a covered electronic device in the state to a
34 consumer, "Retailer" includes, but is not limited to, a manufacturer of a covered electronic device

1 who sells directly to a consumer through any means, including, but not limited to, transactions
2 conducted through sales outlets, catalogs or the Internet, or any similar electronic means, but not
3 including wholesale transactions with a distributor or other retailer.

4 (10) "Manufacturer" means a person who:

5 (a) Has a physical presence and legal assets in the United States of America; and

6 (1) Manufacturers or manufactured a covered electronic product under its own brand or
7 label;

8 (2) Sells or sold under its own brand or label a covered electronic product produced by
9 other suppliers; or

10 (3) Owns a brand that it licenses or licensed to another person for use on a covered
11 electronic product; or

12 (b) Imports or imported a covered electronic product into the United States that is
13 manufactured by a person without a presence in the United States; or

14 (c) Sells at retail a covered electronic product acquired from an importer that is the
15 manufacturer as described in (b) of this subsection, and elects to register in lieu of the importer.

16 (11) "Corporation" means the Rhode Island resource recovery corporation created and
17 established pursuant to chapter 23-19 of the Rhode Island general laws.

18 (12) "Return share" means the minimum percentage of covered electronic devices that an
19 individual manufacturer is responsible for collecting, transporting and recycling.

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

22 (14) "State program" means a statewide program for collecting, transporting and
23 recycling covered electronic devices that is provided by the resource recovery corporation for
24 manufacturers who pay a recycling fee.

25 (15) "Orphan device" means a covered electronic device for which no manufacturer can
26 be identified or the manufacturer is no longer and business and no successor business can be
27 identified.

28 (16) "Premium service" means services such as at-location system upgrade services and
29 at-home pickup services, including curbside pickup service.

30 SECTION 2. Chapter 23-24.10 of the General Laws entitled "Electronic Waste
31 Prevention, Reuse and Recycling Act" is hereby amended by adding thereto the following
32 sections:

33 **23-24.10-7. Manufacturer individual financial responsibility.** -- On the effective date
34 of this chapter, manufacturers have individual financial responsibility for the collection,

1 transportation and recycling of their covered electronic products and historic waste which have
2 been discarded in Rhode Island, including their return share of orphan waste.

3 **23-24.10-8. Sales prohibition.** -- (a) A manufacturer not in compliance with all financial
4 and other requirements of this chapter is prohibited from offering a covered electronic product for
5 sale in this state.

6 (b) It shall be unlawful for any retailer and/or manufacturer to offer for sale in this state a
7 new covered electronic product from a manufacturer that is not in full compliance with the
8 requirements of this chapter. The department shall maintain a list of all manufacturers in
9 compliance with the requirements of this chapter and post the list on an Internet website. Sellers
10 of products in or into the state shall consult the list prior to selling covered electronic products in
11 this state. A seller shall be considered to have complied with this responsibility if, on the date that
12 the product was ordered from the manufacturer or its agent, the manufacturer was listed as being
13 in compliance on the aforementioned website. All manufactures will be considered in compliance
14 with the requirements of this chapter for the purposes of this section until the department
15 publishes the first listing.

16 **23-24.10-9. Manufacturer responsibility.** -- (1) Labeling. On and after the effective
17 date of this chapter, a manufacturer or retailer may not sell or offer for sale a covered electronic
18 product in the state unless it is labeled with the manufacturer's brand, and the label is permanently
19 affixed and readily visible.

20 (2) Registration. Before September 1 of each year, a manufacturer of covered electronic
21 products sold or offered for sale in this state shall register with the department for a period to
22 cover the upcoming calendar year, on a form provided by the department. The registration shall
23 include:

24 (a) A list of all the brands manufactured, sold or imported by the manufacturer, including
25 those brands being offered for sale in this state by the manufacturer;

26 (b) A statement of whether the manufacturer will be implementing a manufacturer
27 program or utilizing the state program for recycling covered electronic products; and

28 (c) Any other information required by the department to implement this chapter.

29 (3) Registration fee. (a) By September 1, 2008, each manufacturer of new covered
30 electronic products offered for sale for delivery in this state shall register with the department and
31 pay to the department a registration fee of five thousand dollars (\$5,000). Thereafter, if a
32 manufacturer has not previously filed a registration, the manufacturer shall file a registration with
33 the department prior to any offer for sale for delivery in this state of the manufacturer's new
34 covered electronic products and shall pay to the department a registration fee of five thousand

1 dollars (\$5,000). Any manufacturer to whom the department provides notification of a return
2 share and return share in weight pursuant to subsection 23-24.10-12(3) and who has not
3 previously filed a registration shall, within thirty (30) days of receiving such notification, file a
4 registration with the department and shall pay to the department a registration fee of five
5 thousand dollars (\$5,000).

6 (b) Each registered manufacturer shall submit an annual renewal of its registration to the
7 department and pay to the department a registration fee of five thousand dollars (\$5,000) by
8 September 1 of each program year.

9 (c) The registration and each annual renewal shall include a list of all of the
10 manufacturer's brands of covered electronic products and shall be effective upon receipt by the
11 department.

12 (4) Plan. (a) A manufacturer choosing to implement a manufacturer program shall submit
13 a plan to the department at the time of payment of the annual registration fee required under
14 subsection 23-24.10-8(3).

15 (b) The manufacturer's plan must describe how the manufacturer will:

16 (i) Finance, manage and conduct a statewide program to collect covered electronic
17 products from covered entities in this state.

18 (ii) Provide for environmentally sound management practices to collect, transport and
19 recycle covered electronic products.

20 (iii) Provide for advertising and promotion of collection opportunities statewide and on a
21 regular basis.

22 (iv) Include convenient service in every municipality in this state. Collection sites shall
23 be staffed and open to the public at a frequency adequate to meet the needs of the area being
24 served. A program may provide collection service jointly with another program.

25 (c) The plan will include a statement disclosing whether: (1) any video display devices
26 sold to households exceed the maximum concentration values established for lead, mercury,
27 cadmium, hexavalent chromium, polybrominated diphenyls (PBBs), and polybrominated
28 diphenyl ethers (PBDEs) under the RoHS (restricting the use of certain hazardous substances in
29 electrical and electronic equipment) directive 2002/95/EC of the European parliament and council
30 and any amendments there to enacted as of the date; or (2) the manufacture has received an
31 exemption from one or more of those maximum concentration values under the RoHS directive
32 that has been approved and published by the European commission.

33 (d) A manufacturer choosing to implement a manufacturer program shall:

34 (i) Provide for collection, transportation and recycling of covered electronic products for

1 covered entities free of charge, except that a manufacturer that provides premium service for a
2 covered entity may charge for the additional cost of that premium service.

3 (ii) Implement the plan required under this section.

4 (iii) Conduct a statistically significant sampling or actual count of the covered electronic
5 products collected and recycled by the manufacturer each calendar year using a methodology
6 approved by the department. The manufacturer shall report the results of the sampling or count to
7 the department no later than December 1 of the following calendar year. The report must include:

8 (A) A list of all brands identified during the sampling or count by the manufacturer;

9 (B) The weight of covered electronic products identified for each brand during the
10 sampling or count; and

11 (C) The total weight of covered electronic products, including orphan products, collected
12 from covered entities in the state by the manufacturer during the previous calendar year.

13 (D) By December 1 of each year, provide a report to the department that details how the
14 plan required under this section was implemented during the previous calendar year.

15 (E) A group of manufacturers may choose to implement a manufacturer program as one
16 entity, if in doing so the manufacturers meet the sum of their individual return shares by weight
17 under subsection 23-24.10-12(3) and that sum is at least five percent (5%).

18 (F) By February 1 of each year, a manufacturer that does not meet its return share by
19 weight for the previous calendar year shall pay the department for the amount not achieved at a
20 rate determined by the department to be equivalent to the amount the manufacturer would have
21 paid as defined under section 23-24.10-12 plus ten percent (10%), to be part of the state program.

22 (G) A manufacturer participating in the state program under section 23-24.10-11 shall
23 notify the department at the time of its registration each year.

24 (H) A manufacturer with less than a five percent (5%) return share is required to
25 participate in the state program under section 23-24.10-11.

26 (5) Recycling fee. By February 1 of each year, a manufacturer that participates in the
27 state program shall pay a recycling fee to the corporation in an amount determined by the
28 department under section 23-24.10-12 to cover the costs of collecting, transporting and recycling
29 the manufacturer's annual return share of covered electronic products for the following year.

30 (6) No collection fees. (1) Except as authorized in subsection (2) of this section, a
31 manufacturer program, the state program or a collector participating in a manufacturer program or
32 the state program may not charge a fee to covered entities for the collection, transportation or
33 recycling of covered electronic products.

34 (2) A collector that provides a premium service to a covered entity may charge for the

1 additional cost of providing the premium service.

2 **23-24.10-10. Retailer responsibility.** -- (a) A retailer may not sell or offer for sale any
3 covered electronic product in or for delivery into this state unless:

4 (i) The covered electronic product is labeled with a brand and the label is permanently
5 affixed and readily visible;

6 (ii) The brand is included on the list posted by the department; and

7 (iii) The list posted by the department specifies that the manufacturer is in compliance
8 with the requirements of this chapter. All manufacturers will be considered in compliance with
9 the requirements of this chapter for the purposes of this section until the department publishes the
10 first listing.

11 (b) A retailer shall provide to a consumer at the time of the sale of a covered electronic
12 product information from the department's website that provides details about where and how a
13 consumer can recycle covered electronic products in Rhode Island. The information shall be
14 provided in printed form for in-store sales and in printable form for Internet sales and other sales
15 where the Internet is involved.

16 **23-24.10-11. Rhode Island resource recovery corporation responsibility.** -- The
17 corporation shall establish a state program for the collection, transportation and recycling of
18 covered electronic products from covered entities in this state. The state program shall be fully
19 funded through the recycling fees as defined in subsection 23-24.10-9(5). The state program
20 shall:

21 (a) To the extent practicable, use existing local collection, transportation and recycling
22 infrastructure;

23 (b) Use environmentally sound management practices as defined under subsection 23-24.
24 10-12(6) to collect, transport and recycle covered electronic products;

25 (c) Provide for covered entities, free of charge, convenient and available collection
26 services and sites for covered electronic products in each county of this state;

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

28 (e) Conduct a statistically significant sampling or actual count of the covered electronic
29 products collected and recycled by the state program during each calendar year using a
30 methodology approved by the department and prepare a report no later than March 1 of the
31 following calendar year that includes:

32 (i) A list of all brands identified during the sampling or count;

33 (ii) The weight of covered electronic products identified for each brand during the
34 sampling or count; and

1 (iii) The total weight of covered electronic products, including orphan devices, collected
2 from covered entities in the state by the state program during the previous calendar year.

3 (f) Maintain on its website information on collection opportunities fro covered electronic
4 products, including collection site locations and hours. The information must be made available
5 in a printable format for retailers.

6 (g) Covered electronic products account fund. (1) The corporation shall create the
7 covered electronic products account fund. Interest earned by the account shall be credited to the
8 account.

9 (2) Fees collected by the corporation under sections 23-24.10-9 shall be deposited in the
10 covered electronic products account fund. Moneys in the account are to be used only to pay the
11 costs of implementing this chapter and enforcing the disposal ban in section 23-24.10-5.

12 **23-24.10-12. Department responsibility. --** The department shall:

13 (1) By November 1, 2008, maintain and make available on its website the following lists,
14 which must be updated by the first day of each month:

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

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

17 (c) A list that identifies which manufacturers are in compliance with this chapter.

18 (2) Review and approve manufacturer plans that comply with this chapter and are
19 submitted annually by manufacturer choosing to implement a manufacturer program for recycling
20 covered electronic products.

21 (3)(a) Determine the return share and return by weight for each calendar year for each
22 manufacturer. The return share shall be determined by dividing the total weight of covered
23 electronic products of that manufacturer's brands by the total weight of covered electronic
24 products for all manufacturers' brands. The return share by weight shall be determined by
25 multiplying the return share for each such manufacturer by the total weight in pounds of covered
26 electronic products, including orphan devices, collected from covered entities the previous
27 calendar year.

28 (b) For 2008 and 2009, determine the return share and return share by weight for each
29 manufacturer based on the best available public return share data and public weight data from
30 within the United States for covered electronic products from covered entities. For subsequent
31 years, the return share of covered electronic products for each manufacturer shall be based on the
32 most recent annual sampling or count of covered electronic products. For subsequent years, the
33 total weight in pounds of covered electronic products shall be based on the total weight of
34 covered electronic products, including orphan devices, determined by the department.

1 (c) By January 1 of each year, provide to each manufacturer that had a return share
2 determined under this section its return share and its return share by weight for the following
3 year.

4 (4) Determine the recycling fee to be paid by each manufacturer that participates in the
5 state program established pursuant to section 23-24.10-11. The department shall determine the
6 recycling fees as follows:

7 (a) For each manufacturer, the department shall determine the recycling fee based on the
8 manufacturer's annual return share and return share by weight as determined under subsection (3)
9 of this section. The fee shall be calculated on a per pound basis and shall not exceed fifty cents
10 (\$.50) per pound.

11 (b) By January 1 of each year, the department shall set the cost per pound for collection,
12 transportation, and recycling of covered electronic devices in order to reasonably approximate
13 market costs for these services, which cost per pound is used to calculate the fee. The department
14 may adjust such cost per pound in order to reasonably approximate market costs for the
15 collection, transportation, and recycling of covered electronic devices. By November 1 prior to
16 the program year for which a revised cost per pound is to be used, the department shall notify all
17 registered manufacturers of the revised cost per pound.

18 (c) By January 1 of each year, the department shall notify each manufacturer that had a
19 recycling fee determined under this section of the amount of its recycling fee.

20 (5) Report biennially to the general assembly on the operation of the statewide system for
21 collection, transportation and recycling of covered electronic products.

22 (6) Environmentally sound recycling. The department shall develop regulations to define
23 environmentally sound recycling practices for the manufacturers' plans and the state program.
24 These regulations will apply to collectors, transporters, and processors, and should ensure that all
25 their downstream vendors comply with all local, state, and federal regulations, and must not
26 violate laws in importing and transit countries when exporting environmentally sensitive
27 materials throughout final disposition. The practices shall also require that facilities that recycle
28 covered electronic products, including all downstream recycling operations, use no prison labor to
29 recycle covered electronic products.

30 (7) Regulatory authority. The department may adopt such regulations as shall be
31 necessary to implement the provisions of this chapter.

32 **23-24.10-13. State procurement.** -- All vendors of electronic devices to the state shall
33 provide take-back and management services for their products at the end of life of those products
34 and must be in compliance with all the requirements of this section. Vendors shall provide

1 assurances that all take-back and management services will operate in compliance with all
2 applicable environmental laws. Purchasing preference must be given to electronic devices that
3 incorporate design for the preservation of the environment.

4 **23-24.10-14. Multistate implementation.** -- The department and the corporation are
5 authorized to participate in the establishment of a regional multistate organization or compact to
6 assist in carrying out the requirements of this chapter.

7 **23-24.10-15. Limitations.** -- If a federal law or combination of federal laws take effect
8 that is applicable to all covered electronic products sold in the United States and establishes a
9 program for the collection and recycling or reuse of covered electronic products that is applicable
10 to all covered electronic products discarded by households, the department shall evaluate whether
11 such laws provide a solution that is equal to or better than the program created by this act. The
12 department shall report its findings back to the legislature.

13 **23-24.10-16. Violations.** -- A violation of any of the provisions of this law or any rule or
14 regulation promulgated pursuant thereto shall be punishable, in the case of a first violation, by a
15 civil penalty not to exceed one thousand dollars (\$1,000). In the case of a second and any further
16 violation, the liability shall be for a civil penalty not to exceed five thousand dollars (\$5,000) for
17 each violation.

18 **23-24.10-17. Severability.** -- The provisions of this chapter shall be severable, and if any
19 part of this chapter is declared to be invalid or void by a court of competent jurisdiction, the
20 remaining portion shall not be affected but shall remain in full force and effect and shall be
21 construed to be the entire chapter.

22 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY - ELECTRONIC WASTE PREVENTION, REUSE,
AND RECYCLING ACT

1 This act would expand the provisions governing the disposal of electronic products in
2 Rhode Island. The system would place a greater responsibility for and funding for such disposal
3 on equipment manufacturers.

4 This act would take effect upon passage.

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