

## CHAPTER 79

**AN ACT** concerning electronic waste and amending P.L.2007, c.347, and P.L.2008, c.130, and supplementing P.L.1977, c.443 (C.26:3A2-21 et seq.).

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 3 of P.L.2007, c.347 (C.13:1E-99.96) is amended to read as follows:

C.13:1E-99.96 Registration for television manufacturers; fee, annual report, recycling program.

3. a. Beginning on January 1, 2010, and each January 1 thereafter, each manufacturer of televisions offered for sale for delivery in this State shall register with the department and pay a registration fee of \$5,000. Each television manufacturer's registration and renewal shall include a list of all of the brands under which its televisions are sold. All fees collected pursuant to this subsection shall be allocated to the department to be used in the administration of the "Electronic Waste Management Act," P.L.2007, c.347 (C.13:1E-99.94 et seq.).

b. Each registered television manufacturer shall submit an annual renewal of its registration to the department and pay to the department a registration renewal fee of \$5,000 by January 1 of each program year. Each registered television manufacturer's renewal shall include an annual report. All fees collected pursuant to this subsection shall be allocated to the department to be used in the administration of P.L.2007, c.347.

c. In addition to reporting all brands under which its televisions are sold, regardless of whether the brand is owned or licensed, the registered television manufacturer's annual report shall include the total number and weight of all new televisions sold in the State in the previous program year. The department shall determine a registered television manufacturer's market share by weight.

d. A registered television manufacturer shall inform the department, in writing, as soon as it becomes aware that it will cease selling televisions in the State.

e. By June 1, 2010, each registered television manufacturer or group of registered television manufacturers shall submit a plan to the department to collect, transport and recycle used televisions based on the television manufacturer's market share. Every plan shall be filed with a television manufacturer's annual registration, and shall include:

(1) Methods that will be used to collect the used televisions including proposed collection services;

(2) The processes and methods that will be used to recycle recovered used televisions including a description of the recycling processes that will be used, including the name and location of all authorized recyclers to be directly utilized by the plan;

(3) Means that will be utilized to publicize the collection services, including specification of a website or toll-free telephone number that provides information about the registrant's recycling program in sufficient detail to allow consumers to learn how to return their used televisions for recycling, including limitations placed by collection sites on the number of used televisions permitted for drop-off by consumers; and

(4) The intention of the registrant to fulfill its obligation through its own operations, either individually or with other registered television manufacturers, or by contract with for-profit or not-for-profit corporations, or local government units.

The department shall hold confidential any information obtained pursuant to this subsection when shown by a registered television manufacturer that the information, if made

public, would divulge competitive business information, methods or processes entitled to protection as trade secrets of the registered television manufacturer.

Recovered used televisions shall not be sent to prisons for recycling either directly or through intermediaries and nothing in this section shall be construed to allow for the recycling of used televisions by prisoners. Any person committed to a jail, prison, or other institution for the detention of persons charged with or convicted of an offense shall be disqualified from being an authorized recycler.

By January 1, 2011, each registered television manufacturer or group of registered television manufacturers shall commence its used television recycling program to implement and finance the collection, transportation, and recycling of used televisions. The used television recycling program shall accept all types and all brands of used televisions, including orphan devices.

f. Each registrant's plan or plan jointly submitted by a group of registrants shall be reviewed to determine its compliance with subsection e. of this section and approved by the department. The department may reject the plan, in whole or in part, and may impose additional requirements as a condition of approval.

g. If a registered television manufacturer fails to comply with all the conditions and terms of an approved plan, the registered television manufacturer shall be prohibited from selling or offering for sale televisions in this State.

h. Registered television manufacturers that collect, transport, and recycle used televisions in excess of their market share may sell credits to another registrant or apply that excess to the following year's recycling program; provided that no more than 25 percent of a manufacturer's obligation for any program year may be met with credits generated in a prior program year. No manufacturer or group of manufacturers, as the case may be, may cease implementing its plan required pursuant to subsection e. of this section and approved by the department, during any program year by using credits.

i. Nothing in this act is intended to exempt any person from liability the person would otherwise have under applicable law.

j. If less than 100 televisions are sold by a manufacturer in the previous program year, the department shall not require a manufacturer to pay the registration fee or registration renewal fee, as appropriate, in the subsequent year, pursuant to subsection a. or b. of this section.

2. Section 3 of P.L.2008, c.130 (C.13:1E-99.96a) is amended to read as follows:

C.13:1E-99.96a Preparation of plan, annual report by department.

3. a. The department shall prepare a plan every three years that: (1) establishes used television per-capita collection and recycling goals; and (2) identifies any necessary State actions to expand collection opportunities to achieve the used television per-capita collection and recycling goals. The plan shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

b. The department shall prepare an annual report, which shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

The annual report shall include the following:

(1) Progress toward achieving the overall annual total recovery and recycling goals described in the plan prepared pursuant to subsection a. of this section; and

(2) An evaluation of the effectiveness of existing used television collection and processing infrastructure.

c. (Deleted by amendment, P.L.2012, c.79).

3. Section 8 of P.L.2007, c.347 (C.13:1E-99.101) is amended to read as follows:

C.13:1E-99.101 Compliance with Directive 2002/94/EC.

8. Beginning on January 1, 2011, no person shall sell or offer for sale in this State a new covered electronic device, including a television, if the covered electronic device is prohibited from being sold or offered for sale in the European Union on or after its date of manufacture due to the concentration of one or more heavy metals in the covered electronic device exceeding its maximum concentration value, as specified in the Commission of European Communities' Decision of August 18, 2005, amending Directive 2002/95/EC (European Union document 2005/618/EC), or as specified in a subsequent amendment to the Directive. The sale or offer for sale of a new covered electronic device that exceeds the European Union heavy metal maximum concentration value on or after its date of manufacture shall be permitted if the use of the heavy metal is necessary to comply with consumer, health, or safety requirements imposed by the Underwriters Laboratories or federal or State law.

4. Section 9 of P.L.2007, c.347 (C.13:1E-99.102) is amended to read as follows:

C.13:1E-99.102 Collection of sampling information by department; registration; fee; TV exception.

9. a. (1) By January 30, 2012, and by each January 30 thereafter, the department shall:

(a) have completed an auditable, statistically valid sampling of covered electronic devices collected from consumers in this State during the previous program year. The sampling information collected shall consist of a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand. The department's sampling shall be conducted in accordance with a procedure established by the department and may be conducted by a third-party organization including an authorized recycler, to be determined by the department. The department may, at its discretion, be present at the sampling and may audit the methodology and the results of the third-party organization. The costs associated with the sampling shall be recovered from the fees paid by manufacturers to the department; and

(b) determine the total weight of covered electronic devices, including orphan devices, collected from consumers in this State during the previous program year.

(2) If a manufacturer or group of manufacturers conducts its own sampling of covered electronic devices, the manufacturer or group of manufacturers shall submit a report to the department annually by March 1, beginning the year after the program is initiated. The report shall include:

(a) the results of an auditable, statistically valid sampling of covered electronic devices collected from consumers in this State by the manufacturer or group of manufacturers during the previous program year. The sampling information reported shall consist of a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand; and

(b) the total weight of covered electronic devices, including orphan devices, collected from consumers in this State by the manufacturer or group of manufacturers during the previous program year and documentation verifying collection and recycling of such devices.

b. By February 1, 2010, and each January 1 thereafter, each manufacturer of covered electronic devices offered for sale for delivery in this State shall register with the department and pay a registration fee of \$5,000. Any manufacturer to whom the department provides notification of a return share and return share in weight pursuant to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-99.105) and who has not previously filed a registration shall file a registration with the department within 30 days of receiving such notification from the department. Each manufacturer's registration and renewal shall include a list of all of the manufacturer's brands of covered electronic devices.

The provisions of this section shall not apply to any manufacturer or retailer of televisions offered for sale for delivery in this State.

c. If less than 100 covered electronic devices are sold by a manufacturer in the previous program year, the department shall not require a manufacturer to pay the registration fee or registration renewal fee, as appropriate, in the subsequent year, pursuant to subsection b. of this section.

5. Section 10 of P.L.2007, c.347 (C.13:1E-99.103) is amended to read as follows:

C.13:1E-99.103 Requirements for manufacturer provided with return share in weight greater than zero, TV exception.

10. a. By June 1, 2010, each manufacturer to whom the department provides, by April 2, 2010, a return share in weight that is greater than zero shall submit a plan to the department to collect, transport and recycle covered electronic devices.

b. Each manufacturer to whom the department provides, by February 15, 2012 or by February 15 of any year thereafter, a return share in weight that is greater than zero shall, by March 15 of that year, comply with the requirements of subsection a. of this section.

c. An individual manufacturer submitting a plan pursuant to subsection a. of this section shall collect, transport, and recycle its return share in weight.

d. A group of manufacturers jointly submitting a plan pursuant to subsection a. of this section shall collect, transport, and recycle the sum of the obligations of each participating manufacturer.

e. Every plan shall be filed with a manufacturer's annual registration, and shall include:

(1) Methods that will be used to collect the covered electronic devices including proposed collection services;

(2) The processes and methods that will be used to recycle recovered covered electronic devices including a description of the recycling processes that will be used, including the name and location of all authorized recyclers to be directly utilized by the plan;

(3) The processes and methods that will be used to recycle recovered covered electronic devices which originated from transactions between business concerns;

(4) Means that will be utilized to publicize the collection services, including specification of a website or toll-free telephone number that provides information about the manufacturer's program in sufficient detail to allow consumers to learn how to return their covered electronic devices for recycling; and

(5) The intention of the registrant to fulfill its obligation through operation of its own plan, either individually or with other manufacturers.

The department shall hold confidential any information obtained pursuant to this subsection when shown by a manufacturer that the information, if made public, would divulge competitive business information, methods or processes entitled to protection as trade secrets of the manufacturer.

Recovered covered electronic devices shall not be sent to prisons for recycling either directly or through intermediaries and nothing in this section shall be construed to allow for the recycling of covered electronic devices by prisoners. Any person committed to a jail, prison, or other institution for the detention of persons charged with or convicted of an offense shall be disqualified from engaging in the manual or mechanical separation of covered electronic devices to recover components and commodities contained therein for the purpose of re-use or recycling.

By January 1, 2011, each manufacturer or group of manufacturers required to submit a plan, pursuant to subsection a. of this section, shall commence its covered electronic device recycling program to implement and finance the collection, transportation, and recycling of covered electronic devices other than televisions. The covered electronic device recycling program shall accept all types and all brands of used covered electronic devices, including orphan devices.

f. Each manufacturer's plan or plan jointly submitted by a group of manufacturers shall be reviewed to determine its compliance with subsection e. of this section and approved by the department. The department may reject the plan, in whole or in part, and may impose additional requirements as a condition of approval.

g. If a manufacturer fails to comply with all the conditions and terms of an approved plan, the manufacturer shall be prohibited from selling or offering for sale in this State a covered electronic device.

h. Manufacturers that collect, transport, and recycle covered electronic devices in excess of their obligation may sell credits to another registrant or apply that excess to the following year's recycling obligation; provided that no more than 25 percent of a manufacturer's obligation for any program year may be met with credits generated in a prior program year. No manufacturer or group of manufacturers, as the case may be, may cease implementing its plan required pursuant to subsection e. of this section and approved by the department, during any program year by using credits.

i. (Deleted by amendment, P.L.2008, c.130)

j. (Deleted by amendment, P.L.2008, c.130)

k. Nothing in this act is intended to exempt any person from liability the person would otherwise have under applicable law.

l. The provisions of this section shall not apply to any manufacturer or retailer of televisions offered for sale for delivery in this State.

6. Section 12 of P.L.2007, c.347 (C.13:1E-99.105) is amended to read as follows:

C.13:1E-99.105 Determination of return share for manufacturer; TV exception; annual report.

12. a. (1) The department shall determine the return share for each program year for each manufacturer by dividing the weight of covered electronic devices identified for each manufacturer by the total weight of covered electronic devices identified for all manufacturers. For the first program year, the return share of covered electronic devices identified for each manufacturer shall be based on the best available public return share data from the United States, including data from other states, for covered electronic devices from

consumers. For the second and each subsequent program year, the return share of covered electronic devices identified for each manufacturer shall be based on the most recent samplings of covered electronic devices conducted in this State pursuant to subsection a. of section 9 of P.L.2007, c.347 (C.13:1E-99.102).

(2) The department shall determine the return share in weight for each program year for each manufacturer for whom a return share is determined pursuant to paragraph (1) of this subsection by multiplying the return share for each such manufacturer by the total weight in pounds of covered electronic devices, including orphan devices, collected from consumers the previous program year. For the first program year, the total weight in pounds of covered electronic devices shall be based on the best available public weight data from the United States, including data from other states, for covered electronic devices from consumers. For the second and each subsequent program year, the total weight in pounds of covered electronic devices shall be based on the total weight of covered electronic devices, including orphan devices, determined by the department pursuant to subsection a. of section 9 of P.L.2007, c.347 (C.13:1E-99.102).

(3) By April 2, 2011, the department shall provide each manufacturer for whom a return share is determined pursuant to paragraph (1) of this subsection with its return share and its return share in weight for the first program year. Annually thereafter, by February 15, beginning in 2013, the department shall provide each manufacturer for whom a return share is determined pursuant to paragraph (1) of this subsection with its return share and its return share in weight for the second and subsequent program years.

b. (Deleted by amendment, P.L.2008, c.130)

c. (1) The department shall ensure that at least one electronics collection opportunity is available in each county throughout the State and in such a manner as to be convenient, to the maximum extent practicable and feasible, to all consumers in the county.

(2) The department shall ensure that collection sites do not place unreasonable limits on the number of covered electronic devices permitted for drop-off by consumers.

d. (1) Beginning on January 1, 2011, the department shall maintain a list of registrants and the brands reported in each manufacturer's registration, and post the list on the department's Internet website that is updated at least once a month.

(2) The department shall organize and coordinate public education and outreach.

e. The department shall prepare a plan every three years that: (1) establishes per-capita collection and recycling goals; and (2) identifies any necessary State actions to expand collection opportunities to achieve the per-capita collection and recycling goals. The plan shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

f. The department shall prepare an annual report, which shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

The annual report shall include the following:

(1) The total weight of covered electronic devices collected in the State the previous calendar year;

(2) Progress toward achieving the overall annual total recovery and recycling goals described in the plan prepared pursuant to subsection e. of this section;

(3) A complete listing of all collection sites operating in the State in the prior calendar year, the parties that operated them, and the amount of material by weight collected at each site;

(4) An evaluation of the effectiveness of the education and outreach program; and

(5) An evaluation of the existing collection and processing infrastructure.

g. (Deleted by amendment, P.L.2012, c.79).

h. The provisions of this section shall not apply to any manufacturer or retailer of televisions offered for sale for delivery in this State.

7. Section 13 of P.L.2007, c.347 (C.13:1E-106) is amended to read as follows:

C.13:1E-99.106 Maintenance of Internet website, toll-free number listing recycling sites.

13. a. The department shall maintain an Internet website and toll-free number complete with up-to-date listings of where consumers can bring covered electronic devices for recycling under the provisions of this act.

b. (Deleted by amendment, P.L.2008, c.130)

c. (Deleted by amendment, P.L.2012, c.79).

d. No fees or costs may be charged to consumers for the collection, transportation, or recycling of covered electronic devices except that a nominal fee may be charged to a consumer if a financial incentive, such as a coupon, of equal or greater value is provided. Any authorized recycler may charge fees to schools or local government units for the reasonable costs incurred by the authorized recycler for the collection, transportation, or recycling of covered electronic devices.

8. Section 16 of P.L.2007, c.347 (C.13:1E-99.109) is amended to read as follows:

C.13:1E-99.109 Used covered electronic device, disposal as solid waste prohibited.

16. a. On and after January 1, 2011, no person shall knowingly dispose of a used covered electronic device, or any of the components or subassemblies thereof, as solid waste.

b. No solid waste facility in this State shall knowingly accept for disposal any truckload or roll-off container of solid waste containing a visible quantity of covered electronic devices, or any of the components or subassemblies thereof, as solid waste at any time.

c. An owner or operator of a solid waste facility may refuse to accept for disposal any truckload or roll-off container of solid waste containing a visible quantity of covered electronic devices or any of the components or subassemblies thereof.

d. An owner or operator of a solid waste facility shall not be found in violation of this section if the owner or operator has:

(1) made a good faith effort to comply with this section;

(2) posted in a conspicuous location at the solid waste facility a sign stating that covered electronic devices, or any of the components or subassemblies thereof, shall not be accepted at the solid waste facility; and

(3) notified, in writing, all persons authorized to deposit solid waste at the solid waste facility that covered electronic devices, or any of the components or subassemblies thereof, shall not be accepted at the solid waste disposal facility.

e. As used in this section, "solid waste facility" shall have the same meaning as set forth in section 3 of P.L.1970, c.39 (C.13:1E-3).

9. Section 17 of P.L.2007, c.347 (C.13:1E-99.110) is amended to read as follows:

C.13:1E-99.110 Enforcement; violations, penalties.

17. a. (Deleted by amendment, P.L.2012, c.79)

b. (Deleted by amendment, P.L.2012, c.79)

c. (Deleted by amendment, P.L.2012, c.79)

d. The “Electronic Waste Management Act,” P.L.2007, c.347 (C.13:1E-99.94 et seq.), and any rule or regulation adopted pursuant thereto, shall be enforced by the department and may be enforced by every certified local health agency, as the case may be. Whenever the commissioner finds that a person has violated any provision of P.L.2007, c.347, or any rule or regulation adopted pursuant thereto, the commissioner may:

(1) issue an order, in accordance with subsection e. of this section, requiring the person found to be in violation to comply;

(2) bring a civil action in accordance with subsection f. of this section;

(3) levy a civil administrative penalty in accordance with subsection g. of this section; or

(4) bring an action for a civil penalty in accordance with subsection h. of this section.

e. Whenever, on the basis of available information, the commissioner finds that a person has violated any provision of P.L.2007, c.347, or any rule or regulation adopted thereto, the commissioner may issue an administrative enforcement order: (1) specifying the provision or provisions of P.L.2007, c.347, or the rule or regulation, of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; and (4) providing notice to the person of the right to a hearing on the matters contained in the administrative enforcement order. The ordered party shall have 35 days from receipt of the order within which to deliver to the commissioner a written request for a hearing. An order shall be effective upon receipt and any person to whom such order is directed shall comply with the order immediately. A request for hearing shall not automatically stay the effect of the order.

f. The commissioner is authorized to, and a certified local health agency may, institute a civil action in Superior Court for appropriate relief from any violation of the provisions of P.L.2007, c.347, or any rule or regulation adopted thereof. Such relief may include, singly or in combination:

(1) a temporary or permanent injunction;

(2) recovery of reasonable costs of any investigation or inspection which led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;

(3) recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any violation of the provisions of P.L.2007, c.347, or any rule or regulation adopted pursuant thereto, for which a civil action has been commenced and brought under this subsection;

(4) recovery of compensatory damages caused by a violation of the provisions of P.L.2007, c.347, or any rule or regulation adopted, for which a civil action has been commenced and brought under this subsection. Assessments under this subsection shall be paid to the State Treasurer, or to the certified local health agency, as the case may be, except that compensatory damages may be paid by specific order of the court to any persons who have been aggrieved by the violation. If a proceeding is instituted by a certified local health agency, notice thereof shall be served upon the commissioner in the same manner as if the commissioner were a named party to the action or proceeding. The department may intervene as a matter of right in any proceeding brought by a certified local health agency.

g. (1) Except as authorized otherwise in paragraph (2) of this subsection, the commissioner is authorized to assess a civil administrative penalty of not less than \$500 nor more than \$1,000 for each violation, provided that each day during which the violation continues shall constitute an additional, separate and distinct offense.



(2) For any violation of section 3, 7, 8, 10 or 11 of P.L.2007, c.347 (C.13:1E-99.96, C.13:1E-99.100, C.13:1E-99.101, C.13:1E-99.103, or C.13:1E-99.104) or subsection a. or b. of section 6, subsection b. of section 9, or subsection a. of section 15 of P.L.2007, c.347 (C.13:1E-99.99, C.13:1E-99.102, C.13:1E-99.108), the commissioner is authorized to assess a civil administrative penalty not to exceed \$25,000 for each day during which a violation continues. In assessing a civil administrative penalty, the commissioner shall consider the severity of the violation, the measures taken to prevent further violations, and whether the penalty will maintain an appropriate deterrent.

Prior to assessment of a civil administrative penalty, the person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall identify the section of the statute, rule, regulation, or order violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil administrative penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative order is in addition to all other enforcement provisions in P.L.2007, c.347, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate.

h. A person who violates any provision of P.L.2007, c.347, or any rule or regulation adopted pursuant thereto, or an administrative order issued pursuant to subsection e. of this section, or a court order issued pursuant to subsection f. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection g. of this section, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the department, shall be subject, upon order of a court, to a civil penalty not to exceed \$25,000 per day of the violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), or may be collected in a civil action commenced by a certified local health agency, or the commissioner, as the case may be. In addition to any penalties, costs or interest charges, the Superior Court, or the municipal court as the case may be, may assess against the violator the amount of economic benefit accruing to the violator from the violation.

i. As used in this section, "certified local health agency" shall have the same meaning as set forth in section 3 of P.L.1977, c.443 (C.26:3A2-23).

j. Violations of the act include, but are not limited to:

(1) the sale of a new covered electronic device by any person that is not in full compliance with the provisions of this act;

(2) the use of a qualified collection program to recycle covered electronic devices not discarded within the State, or region as provided in section 19 of P.L.2007, c.347 (C.13:1E-99.112);

- (3) the knowing failure to report or accurately report any data required to be reported to the department pursuant to this act;
- (4) the non-payment of any fee required pursuant to this act;
- (5) failure to register, pursuant to subsection a. of section 3 of P.L.2007, c.347 (C.13:1E-99.96) or pursuant to subsection b. of section 9 of P.L.2007, c.347 (C.13:1E-99.102);
- (6) failure to submit or implement a plan pursuant to section 3 or 10 of P.L.2007, c.347 (C.13:1E-99.96 or C.13:1E-99.103); and
- (7) failure to comply with any provision of section 16 of P.L.2007, c.347 (C.13:1E-99.109).

C.26:3A2-25.1 Enforcement by certified local health agency.

10. In addition to the environmental health laws that are enforced by a certified local health agency pursuant to section 7 of P.L.1977, c.443 (C.26:3A2-25), a certified local health agency may agree to enforce the provisions of P.L.2007, c.347 (C.13:1E-99.94 et seq.) as provided in section 17 of P.L.2007, c.347 (C.13:1E-99.110).

11. Section 2 of P.L.2007, c.347 (C.13:1E-99.95) is amended to read as follows:

C.13:1E-99.95 Definitions relative to electronic waste management.

2. As used in sections 1 through 21 of P.L.2007, c.347 (C.13:1E-99.94 et seq.) and section 3 of P.L.2008, c.130 (C.13:1E-99.96a):

"Authorized recycler" means a person who: (1) engages in the manual or mechanical separation of covered electronic devices to recover components and commodities contained therein for the purpose of re-use or recycling; or (2) changes the physical or chemical composition of a covered electronic device by deconstructing, size reduction, crushing, cutting, sawing, compacting, shredding, or refining for the purpose of segregating components, and for the purpose of recovering or recycling those components, and who arranges for the transport of those components to an end user.

"Brand" means symbols, words, or marks that identify a covered electronic device, rather than any of its components.

"Business concern" means any corporation, association, firm, partnership, sole proprietorship, trust or other form of commercial organization. "Business concern" shall not include a small business enterprise.

"Cathode ray tube" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

"Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage function, and may include both a computer central processing unit and a monitor, but the term shall not include an automated typewriter or typesetter, a portable handheld calculator, a portable digital assistant, or other similar device.

"Consumer" means a person who purchases a covered electronic device in a transaction that is a retail sale. "Consumer" shall not include any business concern purchasing covered electronic devices.

"Covered electronic device" means a desktop or personal computer, computer monitor, portable computer, or television sold to a consumer. A "covered electronic device" shall not include any of the following: (1) an electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle; (2) an electronic device that is

functionally or physically a part of a larger piece of equipment designed and intended for use in an industrial, commercial, or medical setting, including diagnostic, monitoring, or control equipment; (3) an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or (4) a telephone of any type unless it contains a video display area greater than four inches measured diagonally.

"Department" means the Department of Environmental Protection.

"Local government unit" means any county or municipality, or any agency, instrumentality, authority or corporation of any county or municipality, including, but not limited to, sewerage, utilities and improvement authorities, or any other political subdivision of the State.

"Manufacturer" means any person: (1) who manufactures or manufactured covered electronic devices under a brand that it owns or owned or is or was licensed to use, other than a license to manufacture covered electronic devices for delivery exclusively to or at the order of the licensor; (2) who sells or sold covered electronic devices manufactured by others under a brand that the seller owns or owned or is or was licensed to use, other than a license to manufacture covered electronic devices for delivery exclusively to or at the order of the licensor; (3) who manufactures or manufactured covered electronic devices without affixing a brand; (4) who manufactures or manufactured covered electronic devices to which the person affixes or affixed a brand that the person neither owns or owned nor is or was licensed to use; (5) for whose account covered electronic devices manufactured outside the United States are or were imported into the United States, provided however, if, at the time such covered electronic devices are or were imported into the United States, another person has registered as the manufacturer of the brand of the covered electronic devices pursuant to subsection b. of section 9 of P.L.2007, c.347 (C.13:1E-99.102), then paragraph (5) of this definition shall not apply; or (6) a person who assumes the obligations and responsibilities for any manufacturer pursuant to paragraphs (1) through (5) of this definition.

"Market share" means a television manufacturer's national sales of televisions expressed as a percentage of the total weight of all television manufacturers' national sales based on the best available public data.

"Monitor" means a separate video display component of a computer, whether sold separately or together with a computer central processing unit and computer box, and includes a cathode ray tube, liquid crystal display, gas plasma, digital light processing, or other image projection technology, greater than four inches measured diagonally, and its case, interior wires and circuitry, cable to the central processing unit, and power cord.

"Obligation" means: (1) the return share in weight, identified for an individual manufacturer, as determined by the department pursuant to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-99.105); or (2) the market share, identified for an individual television manufacturer, as determined by the department pursuant to subsection c. of section 3 of P.L.2007, c.347 (C.13:1E-99.96).

"Orphan device" means a covered electronic device for which no manufacturer can be identified, or for which the original manufacturer no longer exists.

"Person" means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government department, partnership, limited liability company, or association.

"Portable computer" means a computer and video display greater than four inches in size that can be carried as one unit by an individual, including a laptop computer.

"Program year" means a full calendar year beginning on or after January 1, 2011.

"Purchase" means the taking, by sale, of title in exchange for consideration.

"Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products. "Recycling" shall not include energy recovery or energy generation by means of incinerating electronic waste whether apart or in combination with other wastes.

"Registrant" means a manufacturer of covered electronic devices that is in full compliance with the requirements of this act.

"Retail sales" means the sale of covered electronic devices through sales outlets, via the Internet, mail order, or other means, whether or not the retailer has a physical presence in this State.

"Retailer" means a person who owns or operates a business that sells new covered electronic devices in this State by any means to a consumer.

"Return share" means the proportion of covered electronic devices for which an individual manufacturer is responsible to collect, transport, and recycle, as determined by the department pursuant to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-99.105).

"Return share in weight" means the total weight of covered electronic devices for which an individual manufacturer is responsible to collect, transport, and recycle, as determined by the department pursuant to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-99.105).

"Sale" or "sell" means any transfer for consideration of title, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other, similar electronic means, and excluding leases.

"Small business enterprise" means any business which has its principal place of business in this State, is independently owned and operated, and employs the equivalent of fewer than 50 full-time employees.

"Television" means a stand-alone display system containing a cathode ray tube or any other type of display primarily intended to receive video programming via broadcast, having a viewable area greater than four inches measured diagonally, able to adhere to standard consumer video formats and having the capability of selecting different broadcast channels and support sound capability.

"Video display" means an output surface having a viewable area greater than four inches when measured diagonally that displays moving graphical images or a visual representation of image sequences or pictures, showing a number of quickly changing images on a screen in fast succession to create the illusion of motion, including, if applicable, a device that is an integral part of the display and cannot be easily removed from the display by the consumer that produces the moving image on the screen. A "video display" typically uses a cathode ray tube, liquid crystal display, gas plasma, digital light processing, or other image projection technology.

12. This act shall take effect immediately.

Approved December 21, 2012.