

Chapter 400

(House Bill 879)

AN ACT concerning

Environment – Statewide Electronics Recycling Program

FOR the purpose of altering the application of certain provisions of law relating to certain registration requirements under the Statewide Electronics Recycling Program; altering certain registration requirements and fees; requiring certain sales data to be treated as confidential and proprietary; requiring the Department of the Environment to maintain a certain list on its Web site; requiring a certain electronic device manufacturer that has implemented a certain takeback program to ~~destroy or sanitize~~ provide information relating to the destruction and sanitization of data from a returned electronic device in a certain manner; altering certain fines; repealing the authority of the Comptroller to assess and forward certain fines in a certain manner; authorizing the Department to assess certain fines; declaring the intent of the General Assembly; requiring the Department to convene a certain workgroup and report to certain Legislative Committees on or before a certain date; altering a certain definition; and generally relating to the Statewide Electronics Recycling Program.

BY repealing and reenacting, with amendments,
 Article – Environment
 Section 9–1701(f), 9–1727, 9–1728, and 9–1730
 Annotated Code of Maryland
 (2007 Replacement Volume and 2011 Supplement)

BY adding to
 Article – Environment
 Section 9–1728.2
 Annotated Code of Maryland
 (2007 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment

9–1701.

(f) “Covered electronic device takeback” program means a program, established by a covered electronic device manufacturer OR A GROUP OF COVERED

ELECTRONIC DEVICE MANUFACTURERS, for the collection and recycling, refurbishing, or reuse of a covered electronic device labeled with the name of the manufacturer or the manufacturer's brand label, including:

(1) Providing, at no cost to the returner, a method of returning a covered electronic device to the manufacturer, including postage paid mailing packages or designated collection points throughout the State;

(2) Contracting with a recycler, local government, other manufacturer, or any other person; or

(3) Any other program approved by the Department.

9-1727.

(a) This section applies to a manufacturer that [manufactured an average of more than 1,000 covered electronic devices per year in the immediately preceding 3-year period] **SELLS OR OFFERS FOR SALE A NEW COVERED ELECTRONIC DEVICE IN THE STATE.**

(b) A manufacturer may not sell or offer for sale to any person in the State a new covered electronic device unless:

(1) The covered electronic device is labeled with the name of the manufacturer or the manufacturer's brand label; and

(2) The manufacturer has registered with and, **IF APPLICABLE**, submitted a registration fee to the Department as provided under this part.

9-1728.

(a) A covered electronic device manufacturer's registration shall include:

(1) The brand names under which the manufacturer sells or offers for sale covered electronic devices in the State;

(2) Whether the manufacturer has implemented a covered electronic device takeback program;

(3) If the manufacturer has implemented a covered electronic device takeback program:

(i) A toll-free number or website address that provides information about the takeback program, including a detailed description of how a person may return a covered electronic device for recycling, refurbishing, or reuse; and

(ii) One year after the implementation of the program and each year thereafter, a report on the implementation of the program during the prior year, including:

1. The total weight of the covered electronic devices received by the program from Maryland during the prior year;

2. The total number of covered electronic devices from Maryland recycled, refurbished, and reused during the prior year; and

3. The processes and methods used to recycle, refurbish, or reuse the covered electronic devices received from Maryland; [and]

(4) THE TOTAL NUMBER OF COVERED ELECTRONIC DEVICES SOLD IN THE STATE IN THE PRIOR YEAR, INCLUDING:

(I) THE TYPES OF COVERED ELECTRONIC DEVICES SOLD;
AND

(II) THE BRAND NAMES UNDER WHICH THE COVERED ELECTRONIC DEVICES WERE SOLD; AND

[(4) (5)] Any additional information required by the Department in regulation.

(b) The registration shall:

(1) Be submitted to the Department by **[January 1] MARCH 1** of each year; and

(2) If the manufacturer has implemented a covered electronic device takeback program, be updated prior to any significant change in the program.

(c) **[The covered electronic device manufacturer registration fee is:**

(1) \$10,000 for the initial registration by the manufacturer;

(2) (i) \$5,000 for each subsequent annual registration by a manufacturer that did not have an implemented covered electronic device takeback program in the prior year; or

(ii) \$500 for each subsequent annual registration by a manufacturer that had an implemented covered electronic device takeback program in the prior year;

(3) Submitted to the Department by January 1 of each year; and

(4) Paid into the State Recycling Trust Fund.]

(1) THE COVERED ELECTRONIC DEVICE MANUFACTURER REGISTRATION FEE SHALL BE PAID BY A MANUFACTURER IN ACCORDANCE WITH THIS SUBSECTION.

(2) FOR THE INITIAL REGISTRATION BY A MANUFACTURER, THE REGISTRATION FEE IS:

(I) \$10,000 FOR A MANUFACTURER THAT SOLD AT LEAST 1,000 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR; AND

(II) \$5,000 FOR A MANUFACTURER THAT SOLD AT LEAST ~~250~~ 100 BUT NOT MORE THAN 999 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR; AND

~~(III) \$1,250 FOR A MANUFACTURER THAT SOLD AT LEAST 50 BUT NOT MORE THAN 249 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR.~~

(3) FOR EACH SUBSEQUENT ANNUAL REGISTRATION BY A MANUFACTURER THAT DID NOT HAVE AN IMPLEMENTED COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM IN THE PRIOR YEAR, THE REGISTRATION FEE IS:

(I) 1. ON OR AFTER MARCH 1, 2013, AND BEFORE MARCH 1, 2016, \$10,000 FOR A MANUFACTURER THAT SOLD AT LEAST 1,000 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR; AND

2. ON OR AFTER MARCH 1, 2016, \$5,000 FOR A MANUFACTURER THAT SOLD AT LEAST 1,000 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR; AND

(II) \$5,000 FOR A MANUFACTURER THAT SOLD AT LEAST ~~250~~ 100 BUT NOT MORE THAN 999 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR; AND

~~(III) \$1,250 FOR A MANUFACTURER THAT SOLD AT LEAST 50 BUT NOT MORE THAN 249 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR.~~

(4) FOR EACH SUBSEQUENT ANNUAL REGISTRATION BY A MANUFACTURER THAT HAD AN IMPLEMENTED COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM IN THE PRIOR YEAR, THE REGISTRATION FEE IS \$500.

(5) THERE IS NO REGISTRATION FEE FOR A MANUFACTURER THAT SOLD LESS THAN ~~50~~ 100 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR.

(6) THE REGISTRATION FEE REQUIRED UNDER THIS SUBSECTION SHALL:

(I) BE SUBMITTED TO THE DEPARTMENT BY MARCH 1 OF EACH YEAR; AND

(II) BE PAID INTO THE STATE RECYCLING TRUST FUND.

(d) (1) The Department shall:

(i) Review the registration submitted under this section; and

(ii) If the registration does not meet the requirements of this section and the regulations adopted by the Department under this subtitle, notify the manufacturer of the insufficiency.

(2) Within 60 days after receipt of a notice of insufficiency, the manufacturer shall submit a revised registration that addresses the insufficiencies noted by the Department.

(e) [(1)] The Department shall maintain a list of registered covered electronic device manufacturers **ON ITS WEB SITE.**

[(2) The Department shall provide a list of registered covered electronic device manufacturers to the Comptroller in a manner agreed on by the Department and the Comptroller.]

(F) THE SALES DATA SUBMITTED IN ACCORDANCE WITH SUBSECTION (A)(4) OF THIS SECTION SHALL BE TREATED AS CONFIDENTIAL AND PROPRIETARY, AND MAY NOT BE DISCLOSED EXCEPT AS OTHERWISE REQUIRED BY LAW.

9-1728.2.

(A) A MANUFACTURER THAT HAS IMPLEMENTED A COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM SHALL INCLUDE EDUCATIONAL AND

INSTRUCTIONAL MATERIALS RELATING TO THE DESTRUCTION AND SANITIZATION OF DATA FROM A COVERED ELECTRONIC DEVICE:

(1) WITH EACH NEW COVERED ELECTRONIC DEVICE SOLD OR OFFERED FOR SALE IN THE STATE;

(2) ON THE MANUFACTURER'S COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM WEB SITE; OR

(3) AS INFORMATION PROVIDED THROUGH THE MANUFACTURER'S COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM TOLL-FREE NUMBER.

(B) A MANUFACTURER THAT IS PARTICIPATING IN A COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM ESTABLISHED BY A GROUP OF COVERED ELECTRONIC DEVICE MANUFACTURERS SHALL BE CONSIDERED AS HAVING IMPLEMENTED A COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM UNDER THIS PART.

~~(1) DESTROY OR SANITIZE DATA FROM A COVERED ELECTRONIC DEVICE THAT IS ACCEPTED BY THE TAKEBACK PROGRAM FROM A RETURNER IN THE STATE; AND~~

~~(2) CERTIFY TO THE RETURNER THAT THE DATA HAS BEEN DESTROYED OR SANITIZED.~~

9-1730.

(a) The provisions and penalties of § 9-342 of this title shall be used and shall apply to enforce violations of this part.

(b) (1) In addition to any other penalty provided by law, the [Comptroller] DEPARTMENT may assess against any retailer that violates § 9-1728.1(b) of this part a fine up to [\$500] **\$1,000** for each violation, but not exceeding [\$5,000] **\$10,000** total.

(2) A fine under paragraph (1) of this subsection may be assessed only after the retailer that committed the violation has been issued three warnings regarding the violation.

(3) Each day on which a violation occurs or continues is a separate violation under this subsection.

[(4) At the end of each quarter, the Comptroller shall forward all fines to the State Recycling Trust Fund in a manner agreed on by the Department and the Comptroller.]

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the annual registration fee collected under § 9-1728(c)(3) of this Act be increased to \$10,000 for a 3-year period beginning March 1, 2013, to provide incentives for manufacturers to implement a covered electronic device takeback program for Maryland returners.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) On or before October 1, 2015, the Secretary of the Environment shall convene a workgroup consisting of representatives of the various sectors of the electronics industry and representatives from appropriate public and private entities to review and assess the impact of the \$10,000 annual registration fee collected under § 9-1728(c)(3) of the Environment Article, as enacted by Section 1 of this Act, on the number of covered electronic device takeback programs implemented by manufacturers.

(b) On or before December 31, 2015, in accordance with § 2-1246 of the State Government Article, the Department of the Environment shall report the findings and recommendations of the workgroup established under subsection (a) of this section to the Legislative Policy Committee, the House Environmental Matters Committee, the Senate Finance Committee, and the Senate Education, Health, and Environmental Affairs Committee.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.