

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 879

(Delegate Morhaim)

Environmental Matters

Education, Health, and Environmental Affairs

Environment - Statewide Electronics Recycling Program

This bill makes various changes to the existing Statewide Electronics Recycling Program, including altering registration exemptions, fees, and penalties. It also requires the Secretary of the Environment to convene a specified workgroup, by October 1, 2015, to review and assess the impact of a specified registration fee and report its findings and recommendations to specified legislative committees by December 31, 2015.

Fiscal Summary

State Effect: Special fund administrative expenditures increase by \$72,300 in FY 2013 for the Maryland Department of the Environment (MDE) to hire one additional natural resources planner to implement and enforce the bill. Future year administrative expenditures reflect annualization and inflation. Special fund revenues decrease by between \$35,000 and \$158,500 annually beginning in FY 2013 depending on how many covered electronic device manufacturers implement device takeback programs in response to the incentive established by the bill’s fee structure. This decrease may be mitigated somewhat to the extent that the bill’s transfer of enforcement authority and enhanced penalties result in the collection of additional special fund penalty revenue.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Revenue	(-)	(-)	(-)	(-)	(-)
SF Expenditure	\$72,300	\$60,900	\$64,800	\$67,800	\$70,900
Net Effect	(\$72,300)	(\$60,900)	(\$64,800)	(\$67,800)	(\$70,900)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local grant revenues from MDE could be affected to the extent the decrease in special fund revenues for the State Recycling Trust Fund results in fewer grants provided by MDE.

Small Business Effect: Potential meaningful impact on small businesses engaged in the recycling of covered electronic devices.

Analysis

Bill Summary: The bill repeals specified exemptions for covered electronic device manufacturers that manufactured 1,000 or fewer covered electronic devices annually averaged over the previous three years. These manufacturers are currently exempt from the requirement to register with MDE and to ensure that all covered electronic devices are labeled with the name of the manufacturer or the brand label. Under the bill, these requirements apply to all manufacturers that *sell or offer for sale* a new covered electronic device *in the State*.

The bill requires the covered electronic device manufacturer registration to include the total number of covered electronic devices sold in Maryland in the prior year, including the types of covered electronic devices sold and the brand names under which the devices were sold. The required sales data submitted as part of the registration process is to be treated as confidential and proprietary and may not be disclosed except as otherwise required by law. The annual deadline for submission of the registration and registration fee is extended from January 1 to March 1. The bill specifies that MDE must maintain its list of registered covered electronic device manufacturers on its website.

The bill alters the registration fee structure for covered electronic device manufacturers by establishing an initial fee that is generally based on the number of devices sold in the State. The bill also alters the annual fee in a similar manner, except that it preserves the current fee for a manufacturer that has established a device takeback program. Thus, the new fee structure is generally as follows:

- \$10,000 initial fee and annual fee (that applies between March 1, 2013, and March 1, 2016) for a manufacturer that sold at least 1,000 devices in the State in the prior year;
- \$5,000 initial fee and annual fee for a manufacturer that sold between 100 and 999 devices in the State in the prior year, and after March 1, 2016, for a manufacturer that sold at least 1,000 devices; and
- no fee for covered electronic device manufacturers that sold fewer than 100 covered electronic devices in the State in the prior year.

However, for subsequent annual registration only, the annual registration fee is \$500 for a manufacturer that had implemented a covered electronic device takeback program in the prior year. The bill alters the definition of a “covered electronic device takeback” program to include a group of covered electronic device manufacturers.

A manufacturer that has implemented a covered electronic device takeback program must include educational materials relating to the destruction and sanitization of data (1) with each new covered electronic device sold in the State; (2) on the manufacturer's takeback program website; or (3) as information provided through the takeback program's toll-free phone number required under current law. Manufacturers that participate in a group takeback program must be considered as having implemented a covered electronic device takeback program.

The bill also increases the administrative penalties for selling or offering for sale a new covered electronic device without complying with the registration requirements, including the payment of registration fees. The penalty *per violation* increases from up to \$500, to up to \$1,000, and the *total maximum* penalty increases from \$5,000 to \$10,000. The bill requires MDE, rather than the Comptroller, to enforce the penalty provisions.

Finally, the bill requires the Secretary of the Environment to convene a workgroup by October 1, 2015, consisting of representatives of various sectors of the electronics industry and appropriate public and private entities to review and assess the impact of the \$10,000 annual registration fee that applies to specified manufacturers that do not have a takeback program between March 1, 2013, and March 1, 2016. The bill states that it is the intent of the General Assembly that this three-year fee increase provide an incentive for manufacturers to implement a takeback program (since the annual fee for manufacturers with a takeback program is only \$500). MDE must report the findings and recommendations of the workgroup by December 31, 2015, to specified legislative committees.

Current Law: Chapter 384 of 2005 established a pilot Statewide Computer Recycling Program administered by the Office of Recycling within MDE. Beginning January 1, 2006, specified computer manufacturers were prohibited from selling a new computer in the State unless the manufacturer registered with MDE and paid a registration fee. Chapter 384 directed fee revenues to the State Recycling Trust Fund to be used to provide grants to local governments to implement computer recycling programs.

Chapter 239 of 2007 expanded the program to apply to "covered electronic devices" and increased the initial manufacturer registration fee from \$5,000 to \$10,000. A "covered electronic device" is defined under current law to include a computer or video display device with a screen that is greater than four inches measured diagonally. A "computer" is defined as a desktop personal computer or laptop computer, including the computer monitor, but does not include a personal digital assistant device or a computer peripheral device, such as a mouse, printer, or detachable keyboard.

Chapter 239 also prohibits a retailer from offering for sale a new covered electronic device unless the manufacturer is in compliance with specified labeling and registration requirements of the program. The Comptroller is authorized to assess against any retailer that violates that prohibition a fine of up to \$500 per violation, up to \$5,000 total. At the end of each quarter, the Comptroller must forward all fines to the State Recycling Trust Fund.

The current fee for a covered electronic device manufacturer is \$10,000 for the initial registration, and \$5,000 for each subsequent annual registration, except for manufacturers with a takeback program, which are subject to only a \$500 annual fee. Registration fees are paid into the State Recycling Trust Fund, which is used to provide grants to counties and municipalities to support specified recycling activities. These grants have helped establish local outreach and education initiatives to promote electronics recycling, including one-day recycling events and, in some cases, curbside collection.

Background: According to the U.S. Environmental Protection Agency (EPA), in 2009, the most recent year for which data are available, about 2.37 million short tons of electronics were ready for end-of-life management, of which about 25% was collected for recycling. Of the different categories of e-waste tracked by EPA, the highest rate of recycling was for computers at about 38%, while the lowest rate was 8% for mobile devices. However, according to MDE data, about 11.1% of the estimated consumer electronics in the municipal solid waste stream were recycled in 2009.

In contrast to many environmental laws, electronics recycling in the United States is generally governed by a patchwork of state laws based primarily on promoting voluntary initiatives through incentives and consumer outreach. While there is no federal mandate, in 2007 EPA established a rule designed to ensure that cathode ray tube televisions and other forms of waste are properly accounted for in their disposal, including disposal that occurs in foreign countries. However, EPA, like most states, seeks to promote voluntary industry initiatives such as the Responsible Recycling program and other industry standards that encourage the use of best practices by electronics device manufacturers and the nascent electronics device recycling industry.

According to the MDE website, 18 counties, Baltimore City, and 3 municipal corporations have established electronics device collection facilities.

MDE reports that, in 2011, 82 manufacturers were registered with MDE under the Statewide Electronics Recycling Program; of those, only 29 have approved takeback programs. MDE also advises that an estimated 85 manufacturers are subject to the existing program but have never registered.

State Expenditures: Special fund administrative expenditures increase by \$72,309 in fiscal 2013, which accounts for the bill's October 1, 2012 effective date. This estimate

reflects the cost of hiring one natural resources planner within MDE’s Land Management Administration to compile and review the list of covered electronics manufacturers, conduct audits of manufacturers, develop enforcement actions and certify manufacturers’ compliance plans, and otherwise implement the additional requirements under the bill. It also reflects the cost to purchase an additional automobile for enforcement. The projected fiscal 2013 opening balance for the State Recycling Trust Fund is \$688,821 and is expected to be sufficient to support the additional expenditures required by the bill, at least in the short term.

Position	1
Salary and Fringe Benefits	\$41,850
Start-up Costs and Operating Expenses	7,653
Automobile Purchase	<u>22,806</u>
Total MDE FY 2013 Administrative Expenditures	\$72,309

Future year administrative expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. Although this analysis assumes that special funds are sufficient to pay MDE’s cost, as discussed below, special fund revenues likely decrease under the bill. Thus, at some point, it is possible that general funds could be needed if sufficient fund balance is not available.

Special fund expenditures from the State Recycling Trust Fund for grants to local governments may decrease due to the decrease in special fund revenues, as discussed below.

Although the bill shifts enforcement from the Comptroller to MDE, the Comptroller’s Office advises that any decrease in workload is not anticipated to have a material impact on its finances. Any staff time freed up would be directed to other activities.

State Revenues: Although a reliable estimate of the bill’s impact on the State Recycling Trust Fund cannot be made at this time due to uncertainty regarding the effect of the incentive provided by the bill’s fee increase for manufacturers with annual sales of at least 1,000 covered electronic devices to implement a takeback program, special fund revenues may decrease by at least \$35,000 annually between fiscal 2013 and 2015 due to the bill’s fee structure, and by \$100,000 annually thereafter. While the annual registration fee doubles, from \$5,000 to \$10,000 for manufacturers that sold at least 1,000 devices in the prior year, this increase is more than fully offset by the fee exemption for manufacturers that sold fewer than 100 devices in the prior year.

However, if the doubling of the fee for the largest manufacturers is successful in incentivizing these manufacturers to establish covered electronic device takeback programs, as anticipated by the intent language in the bill, the decrease in special fund

revenues will be greater. For example, if all manufacturers establish a takeback program by March 1, 2013, and pay the \$500 fee for manufacturers with a takeback program, rather than the \$10,000 annual registration fee, special fund revenues decrease by \$158,500 annually. These estimates assume a continuation of the current number of manufacturers and covered electronic device sales for these manufacturers. This analysis assumes that the number of manufacturers subject to the Statewide Electronics Recycling Program is not materially affected by the bill's changes.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Harford and Montgomery counties, Baltimore City, Maryland Department of the Environment, Comptroller's Office, NorthEast Maryland Waste Disposal Authority, Department of Legislative Services

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Analysis by: Evan M. Isaacson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510