

AN ACT relating to electronic scrap recycling and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The purpose of Sections 1 to 6 of this Act is to establish a comprehensive and convenient television recycling or reuse program based on shared responsibility among all stakeholders, including manufacturers, consumers, retailers, and state government. The recovery system shall ensure that end-of-life televisions are responsibly retired or recycled and promote resource conservation by requiring television manufacturers to develop an effective and efficient system for recycling such products.

➔SECTION 2. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context otherwise requires:

- (1) "Brand" or "brand identifier" means symbols, words, or marks that identify a television, rather than any of its components;*
- (2) "Consumer" means a resident of Kentucky who is an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit and who possesses a television for personal or home business use;*
- (3) "Covered television" means a television discarded in the Commonwealth by a consumer, but does not include any of the following:*
 - (a) A television that is a part of a motor vehicle or motorcycle or any component part of a motor vehicle or motorcycle assembled by or for a vehicle manufacturer or franchised dealer, including replacement parts for a motor vehicle or motorcycle;*
 - (b) A television that is functionally or physically a part of, connected to, or integrated within;*

1. Equipment or a system designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including but not limited to diagnostic, monitoring, or control, or medical products as defined in 21 U.S.C. sec. 360bbb-5;
 2. Equipment used for security, sensing, monitoring, anti-terrorism, or emergency services purposes; or
 3. Equipment designed and intended primarily for professional use;
- (c) A television that is a part of a clothes washer, clothes dryer, water heater, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, or exercise equipment;
- (d) A telephone of any type, including any mobile telephone;
- (e) A personal digital assistant (PDA); or
- (f) A global positioning system (GPS);
- (4) "Department" means the Department for Environmental Protection;
- (5) "Market share" means the calculation used to determine a television manufacturer's obligation for recycling discarded televisions. A television manufacturer's market share is equal to the manufacturer's television sales by weight in the Commonwealth for the prior year divided by all television manufacturers' television sales by weight in the Commonwealth for the prior year, as calculated by the department;
- (6) "Person" means any individual, business entity, partnership, company, corporation, not-for-profit corporation, association, governmental entity, public benefit corporation, public authority, or firm;
- (7) "Program year" means a full calendar year beginning on January 1, 2011, and each January 1 thereafter;
- (8) "Recover" means to reuse or recycle;

- (9) "Recycling" has the same meaning as in KRS 224.01-010;
- (10) "Retailer" means a person who owns or operates a business that sells televisions directly to consumers, including through sales outlets, catalogs, or the Internet, whether or not the seller has a physical presence in the Commonwealth;
- (11) "Sell" or "offer for sale" or "sale" means any transfer of title for consideration including but not limited to transactions conducted through sales outlets, catalogs, the Internet, or any other similar electronic means, but does not mean financing or leasing;
- (12) "Television" means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including but not limited to any direct view or projection television with a viewable screen of four (4) inches measured diagonally or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal display (LCD) digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD), light emitting diode (LED), or similar technology marketed and intended for use by a consumer. "Television" does not mean a computer, computer printer, computer monitor, or portable computer; and
- (13) "Television manufacturer" means a person who, in any given program year:
- (a) Manufactures more than one thousand (1,000) televisions to be sold in the Commonwealth under a brand that it licenses or owns;
 - (b) Manufactures more than one thousand (1,000) televisions to be sold in the Commonwealth without affixing a brand;
 - (c) Resells in the Commonwealth more than one thousand (1,000) televisions produced by other suppliers, but resold under a brand it owns or is licensed to use, including retail establishments that sell televisions under a brand the retailer owns or licenses;

- (d) Sells at retail more than one thousand (1,000) televisions acquired from an importer that is the manufacturer and elects to register in lieu of the importer as the manufacturer for those televisions;
- (e) Manufactures more than one thousand (1,000) televisions and supplies them to any person or persons within a distribution network that includes wholesalers or retailers in this Commonwealth and benefits from the sale of those televisions through such a distribution network; or
- (f) Assumes the responsibilities and obligations of a television manufacturer under this Act. If the television manufacturer manufactures, sells, or resells under a brand that it licenses, then the licensor or brand owner of the brand shall not be included in the definition of television manufacturer under paragraphs (a) or (c) of this subsection.

➔SECTION 3. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) After December 31, 2010, a television manufacturer shall not sell, offer for sale, or deliver to a retailer for subsequent sale a television in the Commonwealth unless the television manufacturer permanently affixes its name and brand, whether owned or licensed, on the television.
- (2) By January 1, 2011, and each January 1 thereafter, each television manufacturer selling or offering for sale a television in the Commonwealth shall register with the department and pay a registration fee of one thousand five hundred dollars (\$1,500), which shall be deposited by the department in the Kentucky television recycling fund established in Section 6 of this Act. New television manufacturers shall register with the department and pay the registration fee before selling or offering for sale televisions in the Commonwealth.
- (3) Each registration and renewal shall be effective upon receipt by the department and shall include a list of all of the brands that the television manufacturer is

using on televisions, regardless of whether it owns or licenses the brands.

- (4) A television manufacturer shall provide the department with contact information for the television manufacturer's designated agent or employee whom the department may contact for information relating to the television manufacturer's compliance with the requirements of this section.
- (5) The obligation to recycle covered televisions shall be allocated to each television manufacturer based on the average of the television manufacturer's market share from the previous two (2) program years multiplied by the average of the total pounds of televisions recycled by all television manufacturers from the previous two (2) program years. Beginning in program year 2011, a television manufacturer shall annually recycle or arrange for the recycling of covered televisions, but no minimum recycling responsibility shall be apportioned to it. Beginning in program year 2013, a television manufacturer shall annually recycle or arrange for the recycling of its market share of covered televisions pursuant to this section.
- (6) A television manufacturer may fulfill the requirements of this section either individually or in cooperation with other television manufacturers.
- (7) Each television manufacturer shall report to the department by January 31, 2012, and by January 31 of each year thereafter, the total weight of covered televisions the manufacturer collected and recycled in the Commonwealth for the previous program year.
- (8) Notwithstanding any provision of law to the contrary, any person who violates subsection (1), (2), or (5) of this section shall be subject to a fine not to exceed one thousand dollars (\$1,000) for each violation and shall not be subject to any other penalty imposed by this chapter.
- (9) All money collected by the department from fines for violations of the provisions of this section shall be deposited in the Kentucky television recycling fund

established in Section 6 of this Act.

➔SECTION 4. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The department shall use state-specific television sales data or national television sales data available from commercial analytical sources to determine each television manufacturer's recovery responsibilities based on the manufacturer's market share. If the department uses national sales data, the department shall extrapolate data for the Commonwealth from the national data on the basis of the Commonwealth's share of the national population. The department shall seek to establish the most accurate determination of each manufacturer's market share and may rely on supplemental sources of information to achieve its goal.
- (2) By March 15, 2013, and by March 15 of each year thereafter, the department shall notify each manufacturer of its recycling obligation for that year. Each television manufacturer's obligation shall be based on the average of the manufacturer's market share from the previous two (2) program years multiplied by the average of the total pounds of televisions recycled by all television manufacturers from the previous two (2) program years.
- (3) The department shall maintain on its Web site information for consumers on how and where to return their end-of-life covered televisions for recycling and shall otherwise educate consumers about recovery of covered televisions.
- (4) The department may conduct audits and inspections of television manufacturers' recycling programs to ensure compliance with Section 3 of this Act. The department shall enforce the provisions of Section 3 of this Act and shall take enforcement action against any television manufacturer, retailer, or recoverer for failure to comply with Section 3 of this Act.
- (5) Notwithstanding any provision of law to the contrary, financial or proprietary information submitted to the department in compliance with Sections 3 to 5 of

this Act shall be confidential and not subject to public disclosure under KRS 61.872 to 61.884.

(6) By April 1, 2012, and by April 1 of each year thereafter, the department shall submit a report to the Legislative Research Commission containing information on the amount of covered televisions recycled by television manufacturers under the program established in Section 3 of this Act during the previous program year.

→SECTION 5. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) All covered televisions collected for recovery pursuant to Section 3 of this Act shall be recovered in a manner that is in compliance with all applicable federal, state, and local laws.

(2) Within one hundred eighty (180) days of the effective date of this Act, the department shall promulgate administrative regulations pursuant to KRS Chapter 13A to incorporate by reference the Institute of Scrap Recycling Industry, Incorporated's Electronics Recycling Operating Practices or other comparable standard as requirements for the recycling or recovery of covered televisions.

→SECTION 6. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

A trust and agency fund known as the Kentucky television recycling fund is hereby established in the State Treasury to receive money collected from the registration fee established in Section 3 of this Act and fines for violations of Section 3 of this Act. Moneys in the fund shall be used by the department solely for administering the provisions of Sections 3 to 5 of this Act. Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year. The fund may also receive state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to

the fund and shall not lapse.

➔SECTION 7. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 7, 8, 9, and 11 of this Act, unless the context otherwise requires:

(1) "Cathode ray tube" or "CRT" means a vacuum tube or picture tube used to convert an electronic signal into a visual image;

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

(3) "Consumer" means a resident of Kentucky who is an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit who possesses a covered electronic device for personal or home business use;

(4) (a) "Covered electronic device" means any:

1. Computer, including any desktop, integrated desktop, laptop, or other portable computer;

2. Computer monitor, including but not limited to a liquid crystal display, plasma display, or similar video display device that includes a screen that is greater than four (4) inches measured diagonally and has at least one (1) circuit board;

3. Keyboard, electronic mouse, or similar pointing device;

4. Portable digital music player that has memory capability and is battery-powered; or

5. Printer used for consumer document printing purposes.

(b) "Covered electronic device" shall not include:

1. A device that is a part of a motor vehicle or motorcycle or any component part of a motor vehicle or motorcycle assembled by or for a vehicle or motorcycle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle or motorcycle;
2. A device that is functionally or physically a part of, or connected to, or integrated within:
 - a. Equipment or a system designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including but not limited to diagnostic, monitoring, or control, or medical products as defined in 21 U.S.C. sec. 360bbb-5;
 - b. Equipment used for security, sensing, monitoring, anti-terrorism, or emergency services; or
 - c. Equipment designed and intended primarily for professional use;
3. Industrial or commercial printers;
4. A device that is a part of a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, water heater, room air conditioner, dehumidifier, air purifier, or exercise equipment;
5. A touch-screen display;
6. A personal digital assistant (PDA);
7. A global positioning system (GPS);
8. A mobile telephone;
9. A home video gaming console;
10. A multichannel video service set top box; or
11. A television;

- (5) "Department" means the Department for Environmental Protection;
- (6) "Manufacturer" means any person who:
- (a) Assembles or substantially assembles more than one thousand (1000) covered electronic devices in one (1) year to be sold in the Commonwealth to consumers; and
- (b) Meets any one of the following criteria:
1. Manufactures covered electronic devices under its own brand name or under any other brand name to be sold in the Commonwealth;
 2. Sells covered electronic devices produced by another person under its own brand name;
 3. Owns a brand name that it licenses to another entity for use on covered electronic devices sold in the Commonwealth;
 4. Imports covered electronic devices from outside of the United States to be sold in the Commonwealth; or
 5. Manufactures covered electronic devices to be sold in the Commonwealth without affixing a brand name to them;
- (7) "Monitor" means a separate visual display component of a computer, whether sold separately or with a central processing unit including the cathode ray tube, liquid crystal display, or other image projection technology, and includes its case, interior wires and circuitry, all exterior and interior cables, and power cord;
- (8) "Orphan device" means a covered electronic device for which the manufacturer cannot be identified or is no longer in business and for which no successor-in-interest can be identified;
- (9) "Person" means any individual, business entity, partnership, company, corporation, not-for-profit corporation, association, governmental entity, public benefit corporation, public authority, or firm;
- (10) "Recycling" has the same meaning as in KRS 224.01-010; and

(11) "Sale" or "sell" means any transfer of title for consideration including but not limited to transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means, but does not mean financing or leasing.

➔SECTION 8. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The obligations imposed on manufacturers under this section shall only apply to the recycling of covered electronic devices possessed by consumers.

(2) Beginning on January 1, 2011, each manufacturer of a covered electronic device shall offer an electronic scrap recycling program to consumers that provides for the collection, transportation, and either recycling or reuse of its covered electronic devices sold or delivered for sale within the Commonwealth.

(3) Each electronic scrap recycling program shall provide for collection services for covered electronic devices that are reasonably convenient and available to consumers throughout the Commonwealth. Examples of reasonably convenient collection services that alone, or in combination, meet the availability requirements of this section include but are not limited to:

(a) A mail-back system, whereby a consumer may return covered electronic devices through the mail;

(b) Arrangements to provide locations where a consumer may drop off covered electronic devices for later collection and transportation by the manufacturer; and

(c) Regularly scheduled collection events where consumers may return covered electronic devices.

(4) Each manufacturer of covered electronic devices shall:

(a) By November 1, 2010, and each November 1 thereafter, register with the department, on a form prescribed by the department and posted on the department's Web site, and pay a registration fee of one thousand five

hundred dollars (\$1,500) which shall be deposited by the department in the Kentucky electronic device recycling fund established in Section 9 of this Act;

(b) Beginning on January 1, 2011, maintain at its principal place of business a plan for implementing the electronic scrap recycling program required by this section. The plan shall include the following:

1. A list of all of the manufacturer's covered electronic devices, including the brand names of covered electronic devices currently being sold in the Commonwealth;
2. The name, address, and contact information of a person responsible for implementing the program on behalf of the manufacturer;
3. An explanation of how the manufacturer will offer to provide for the collection, transportation, and recycling or reuse of its covered electronic devices;
4. The means by which the manufacturer will inform consumers of the program and encourage participation in it; and
5. The means by which the manufacturer will calculate the weight of all covered electronic devices, including orphan devices, that it recycled under this section during the previous calendar year;

(c) By March 1, 2012, and by each March 1 thereafter, notify the department of the estimated amount by weight of covered electronic devices recycled by or for the manufacturer pursuant to the plan required under this section during the previous calendar year.

(5) The plan required under subsection (4) of this section shall be made available to the department upon request. Notwithstanding any provision of law to the contrary, financial or proprietary information, including trade secrets, commercial information, and business plans submitted to the department in

compliance with this subsection shall be confidential and not subject to public disclosure under KRS 61.872 to 61.884.

- (6) Manufacturers may conduct electronic scrap recycling programs under this section either alone or in cooperation with other manufacturers. A manufacturer's program may use existing collection, consolidation, and transportation infrastructure for handling electronic scrap, and may include but is not limited to, electronics recyclers and refurbishment shops, recyclers of other commodities, reuse organizations, nonprofit corporations, retailers, or other operations.
- (7) Beginning on January 1, 2011, manufacturers of covered electronic devices shall not deliver to retailers for subsequent sale in the Commonwealth a covered electronic device unless a manufacturer's logo or other brand identifier is permanently attached to, printed or engraved on, or incorporated in some other permanent manner on the covered electronic device.
- (8) A manufacturer may provide for the collection, transportation, and recycling or reuse of orphan devices in its electronic scrap recycling plan.
- (9) A manufacturer's electronic scrap recycling program that is in place before the effective date of this Act may be used to satisfy the manufacturer's obligations under this section provided that the program is otherwise compliant with the requirements of this section.
- (10) No manufacturer, retailer, collector, or recycler shall be liable for the possession of any information left on any covered electronic device that has been collected, transported, recycled, or reused pursuant to an electronic scrap recycling program established under this section.
- (11) Notwithstanding any provision of law to the contrary, if more than one person is a manufacturer of a certain brand of covered electronic device, any of those persons may assume responsibility for and satisfy the obligations of a

manufacturer under this section. If none of those persons assumes responsibility or satisfies the obligations of a manufacturer for a certain brand of covered electronic device, then the department shall make a final determination, subject to appeal under KRS 224.10-470, as to who shall have the responsibilities of a manufacturer with regard to the covered electronic device and shall notify the manufacturer of the final determination.

(12) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the following requirements for persons other than manufacturers who are engaged in the recycling of covered electronic devices:

(a) Registration requirements;

(b) Performance standards and reporting requirements; and

(c) Financial assurance requirements that are adequate to provide for the collection, transportation, processing, recycling, and remediation activities that may be necessary as a result of default, abandonment, or environmental contamination.

The administrative regulations promulgated under this subsection shall not apply to persons collecting or storing covered electronic devices for transfer to recyclers if the persons collecting or storing the covered electronic device receive no financial consideration for such collection, storage, or transfer.

(13) By June 1, 2012, and by June 1 of each year thereafter, the department shall submit a report to the Legislative Research Commission stating the amount of covered electronic devices recycled in the Commonwealth under this section during the previous year. The department may utilize information disclosed to it by manufacturers under this section or information from any other reasonably available sources.

(14) Notwithstanding any provision of law to the contrary, any person who violates subsection (2), (4), or (7) of this section shall be subject to a fine not to exceed

one thousand dollars (\$1,000) for each violation and shall not be subject to any other penalty imposed by this chapter.

(15) All money collected by the department from fines for violations of provisions of this section shall be deposited in the Kentucky electronic device recycling fund established in Section 9 of this Act.

➔SECTION 9. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

A trust and agency fund known as the Kentucky covered electronic device recycling fund is hereby established in the State Treasury to receive money collected from the registration fee established in Section 8 of this Act and fines for violations of Section 8 of this Act. Moneys in the fund shall be used by the department solely for administering the provisions of Section 8 of this Act. Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year. The fund may also receive state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund and shall not lapse.

➔Section 10. KRS 224.99-010 is amended to read as follows:

- (1) Any person who violates KRS 224.10-110(2) or (3), 224.70-110, 224.73-120, 224.20-050, 224.20-110, 224.46-580, 224.01-400, or who fails to perform any duties imposed by these sections, or who violates any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars (\$25,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.
- (2) Any person who violates KRS 224.10-110(4) or (5), or KRS 224.40-100, 224.40-305, or any provision of this chapter relating to noise, or who fails to perform any

determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of five thousand dollars (\$5,000) for said violation and an additional civil penalty not to exceed five thousand dollars (\$5,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.

- (3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the cabinet promulgated pursuant to those sections which have become final shall be guilty of a Class A misdemeanor. Each day upon which the violation occurs shall constitute a separate violation.
- (b) For offenses by motor vehicles, a person shall be guilty of a violation.
- (4) Any person who knowingly violates KRS 224.70-110, 224.73-120, 224.40-100, 224.20-110, 224.20-050, 224.40-305, or 224.10-110(2) or (3), or any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant to those sections which have become final, or who knowingly provides false information in any document filed or required to be maintained under this chapter, or who knowingly renders inaccurate any monitoring device or method, or who tampers with a water supply, water purification plant, or water distribution system so as to knowingly endanger human life, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000), or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.
- (5) If any person engages in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of

this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter, or fails to provide information or to meet reporting requirements required by terms and conditions of a permit or administrative regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars (\$25,000) for each day during which the violation continues, and in addition, may be enjoined from any violations in a court of appropriate jurisdiction.

- (6) Any person who knowingly is engaged in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of this chapter or contrary to a permit, order, or administrative regulation issued or promulgated under this chapter, or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000) for each day of violation, or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.
- (7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any violation.
- (8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars (\$1,000) for said violation and an additional civil

penalty not to exceed one thousand dollars (\$1,000) for each day during which the violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.

- (9) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the Attorney General on its behalf for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.
- (10) Any person who deposits leaves, clippings, prunings, garden refuse, or household waste materials in any litter receptacle, except with permission of the owner of the receptacle, or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a Class B misdemeanor.
- (11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.
- (12) Any person who violates KRS 224.20-300, 224.20-310, any other provision of this chapter, or any determination, permit, administrative regulation, or order of the cabinet relating to the Asbestos Hazard Emergency Response Act of 1986 (AHERA), Public Law 99-519, as amended, shall be liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand dollars (\$25,000) for each violation. Each day a violation continues shall, for purposes of this subsection, constitute a separate violation of provisions of this chapter relating to AHERA.
- (13) A violation of KRS 224.50-413 shall be subject to a fifty dollar (\$50) fine for each day the violation continues.
- (14) Any person who removes a methamphetamine contamination notice posted under

KRS 224.01-410(9) contrary to the administrative regulations governing methamphetamine contamination notice removal shall be guilty of a Class A misdemeanor.

(15) Any person who leases, rents, or sells a property that has been determined to be contaminated property under KRS 224.01-410(4) to a lessee, renter, or buyer without giving written notice that the property is a contaminated property pursuant to KRS 224.01-410(10) shall be guilty of a Class D felony.

(16) Notwithstanding any provision of law to the contrary, any person who violates subsection (1), (2), or (5) of Section 3 of this Act shall be subject only to the penalty imposed by subsection (8) of Section 3 of this Act.

(17) Notwithstanding any provision of law to the contrary, any person who violates subsection (2), (4), or (7) of Section 8 of this Act shall be subject only to the penalty imposed by subsection (14) of Section 8 of this Act.

➔Section 11. (1) No later than August 1, 2010, the Environmental and Public Protection Cabinet shall establish a working group to study and report to the Legislative Research Commission by December 1, 2010, on the recycling of non-consumer electronic scrap in the Commonwealth and potentially banning all electronic scrap from landfill disposal.

(2) The working group shall examine the following topics:

(a) Recycling of non-consumer electronic scrap in the Commonwealth, including but not limited to the implementation of a state-regulated recycling program for non-consumer electronic scrap; and

(b) Disposal of electronic devices at landfills or by combustion or incineration and the impact of a future landfill ban on electronic devices.

(3) (a) As part of its examination, the working group shall discuss and consider laws in other states that address these issues and the potential impact of implementing similar laws in the Commonwealth.

(b) The working group shall examine non-state-regulated recycling practices across the nation for non-consumer electronic scrap, including but not limited to contracting between manufacturers and large businesses, the availability of recycling options for schools, government, and small businesses, and the recycling rates of non-consumer electronic scrap in regulated states versus non-regulated states. Participants in the working group shall not be required to release any information considered to be proprietary or related to contract matters.

(4) The working group shall be comprised of any and all parties and persons interested in attending meetings and providing input, including but not limited to the following:

- (a) Manufacturers and retailers of computers, printers, and peripheral devices;
- (b) Recyclers of electronic scrap;
- (c) Representatives of the solid waste industry;
- (d) Small businesses that generate non-consumer electronic scrap;
- (e) Large businesses that generate non-consumer electronic scrap;
- (f) Environmental interest and advocacy organizations;
- (g) Associations and advocacy organizations representing manufacturers, retailers, and businesses concerned with the Commonwealth's role in regulating the recycling of non-consumer electronic scrap;
- (h) Local government officials with experience operating electronic scrap recycling programs; and
- (i) State government officials from the Division of Waste Management.

(5) The Environmental and Public Protection Cabinet shall post notices of meetings pursuant to the Kentucky Open Meetings Act, KRS 61.800 to 61.850, and make the information publicly available on its Web site and via its regular, existing communication methods. The cabinet shall make a reasonable effort to achieve participation from all of the parties named in subsection (4) of this section; however, the

cabinet shall not be liable in any way if representatives refuse to participate or are otherwise nonresponsive.

(6) The cabinet shall host at least four public meetings of the working group, but the cabinet is encouraged to hold additional meetings and pursue other opportunities to gather the best information available from all sources as it relates to these topics.

(7) The cabinet shall compile and publish a final report of the working group that includes a summary of all information gathered and any recommendations reached by a consensus of the parties involved. If there is substantial disagreement on any of the topics, the cabinet shall include both points of view in its report.