

SENATE, No. 1861

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED OCTOBER 4, 2004

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)

SYNOPSIS

"Electronic Waste Producer Responsibility Act."

CURRENT VERSION OF TEXT

As introduced.



S1861 B. SMITH

2

1 AN ACT concerning electronic waste management, supplementing
2 P.L.1987, c.102 and amending P.L.1991, c.521.

3

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

6

7 1. (New section) This act shall be known and may be cited as the
8 "Electronic Waste Producer Responsibility Act."

9

10 2. (New section) The Legislature finds and declares that:

11 (1) Electronic waste contains lead, mercury, chromium, cadmium,
12 polyvinyl chloride, mixed plastics, beryllium, brominated flame
13 retardants and other hazardous substances, and therefore poses a
14 threat to human health and the environment if improperly disposed of
15 at the end of their useful life;

16 (2) Less than ten percent of discarded electronic equipment are
17 currently recycled, with the remainder stockpiled or improperly
18 disposed of, while large quantities of the toxic equipment intended for
19 recycling are shipped overseas for dismantling under horrific
20 conditions and many domestic processors can not attest to the ultimate
21 disposition of the materials collected;

22 (3) The full extent of the public health threat and environmental
23 contamination resulting from electronic equipment entering the waste
24 stream through disposal into solid waste landfills or incinerators is
25 unknown, but is estimated that forty percent of the heavy metals in
26 solid waste landfills come from electronic discards; and

27 (4) Currently, producers of electronic equipment bear none of the
28 burden or responsibility for safely managing discarded electronic
29 equipment at the end of its useful life, burdening State taxpayers, local
30 governments and end users with these costs and responsibilities;

31 The Legislature therefore determines that it is in the public interest
32 to shift the financial responsibility for the collection and recycling of
33 discarded electronic waste from the taxpayers of New Jersey to the
34 producers of electronic products, as hereinafter provided.

35

36 3. (New section) As used in this act:

37 "Business concern" means any corporation, association, firm,
38 partnership, sole proprietorship, trust or other form of commercial
39 organization;

40 "Commissioner" means the Commissioner of Environmental
41 Protection;

42 "Department" means the Department of Environmental Protection;

43 "Electronic equipment" means equipment that is dependent on

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 electric currents electromagnetic fields in order to work properly and
2 contains one or more printed circuit boards, including, but not limited
3 to, computer equipment including cathode ray tubes, display monitors,
4 central processing units, keyboards, printers, computer peripherals;
5 display monitors, and displays; telecommunication equipment including
6 telephones, cellular telephones, facsimile machines, answering
7 machines; small electronic devices and appliances containing one or
8 more circuit boards; video and stereo equipment; televisions, toys,
9 games and educational devices containing one or more printed circuit
10 boards; and major household appliances containing one or more
11 printed circuit boards;

12 "Electronic waste" means electronic equipment which has been
13 discarded, become obsolete, ceased to function, is no longer wanted
14 by its owner, or for any other reason has become available for
15 recycling or disposal;

16 "Historic electronic waste" means electronic equipment which
17 became electronic waste prior to the effective date of this act, the
18 producer of which is a business concern still in business as of the
19 effective date of this act;

20 "Orphan electronic waste" means electronic waste manufactured by
21 or bearing the brand name of a business concern which is no longer in
22 business as of the effective date of this act;

23 "Person" means any individual or business concern;

24 "Producer" means any person that, either as of the effective date of
25 this act or thereafter, and regardless of the selling technique used,
26 including by means of distance communication: (1) manufactures and
27 sells electronic equipment under its own brand; (2) manufactures and
28 sells electronic equipment without affixing a brand; (3) resells
29 electronic equipment produced by other suppliers under its own brand
30 and label; or (4) imports or exports electronic equipment into this
31 State;

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

38 "Resource recovery facility" means a solid waste facility
39 constructed and operated for the incineration of solid waste for energy
40 production and the recovery of metals and other materials for reuse;

41 "Re-use" means any operation by which electronic waste or
42 components thereof are used for the same purpose for which they were
43 conceived, including the continued use of the electronic equipment or
44 components thereof which are returned to recyclers or producers;

45 "Sanitary landfill facility" means a solid waste facility at which solid
46 waste is deposited on or in the land as fill for the purpose of

1 permanent disposal or storage for a period exceeding six months,
2 except that it shall not include any waste facility approved for disposal
3 of hazardous waste.

4
5 4. (New section) a. Within 24 months of the effective date of this
6 act, every producer of electronic equipment sold, offered for sale, or
7 offered for promotional purposes in this State shall prepare and submit
8 an electronic waste management plan, in writing, to the department for
9 implementing a program for financing the environmentally-sound
10 management of discarded and obsolete electronic equipment, including
11 orphan electronic waste and historic electronic waste.

12 b. Every producer of electronic equipment sold, offered for sale,
13 or offered for promotional purposes in this State shall be responsible
14 for financing the environmentally-sound management of the electronic
15 waste from its own products, but may execute this obligation through
16 individual financing schemes or in cooperation with other producers.

17 c. Consumers and electronic equipment end users may be
18 responsible for delivering electronic waste into the collection system,
19 as may be provided for in the electronic waste management plan;
20 provided, however, that a producer may include direct collection,
21 reverse delivery systems, or reverse logistics systems in the electronic
22 waste management plan.

23 d. Consumers shall not be charged to return electronic waste.

24 e. Any producer that fails to implement a financial responsibility
25 program within the time provided for in this section shall be prohibited
26 from selling its products in this State.

27
28 5. (New section) a. Within 6 months of the effective date of this
29 act, every producer of electronic equipment sold, offered for sale, or
30 offered for promotional purposes in this State shall prepare and submit
31 an electronic waste management plan, in writing, to the department,
32 which is designed to meet the producer's responsibilities under this act.

33 b. Each electronic waste management plan submitted by a producer
34 shall provide, at a minimum, that the producer will participate in a
35 national collection program for computer products and cathode ray
36 tubes that will be fully implemented in this State no later than 6
37 months following the effective date of this act and that the collection
38 program will be consistent with the requirements of this section and
39 with the performance standards established by the department.

40 The department shall not approve an electronic waste management
41 plan unless the department finds, in writing, that the plan, or the
42 collection program, will provide:

43 (1) An effective system for financing the collection, treatment,
44 recovery, re-use, and disposition of all electronic equipment sold,
45 offered for sale, or offered for promotional purposes in this State by
46 the producer;

1 (2) A plan for financing that producer's share of orphan electronic
2 waste and historic electronic waste in this State, as determined by the
3 department, as of the effective date of the producer's financial
4 obligation;

5 (3) A plan for complying with the labeling, consumer notification,
6 and public education requirements of this act that are necessary to
7 ensure the protection of electronic equipment users, processors and
8 recyclers, and ensure participation in the producer's plan;

9 (4) Documentation of the willingness of all necessary parties
10 involved to implement the proposed plan, and assurances that the plan
11 will comply with all applicable State and local environmental laws and
12 regulations;

13 (5) A description of the performance measures to be used and
14 reported by the producer to the department to demonstrate that the
15 collection system is meeting the measures of the collection program's
16 effectiveness required by the department; and

17 (6) A description of the alternative or additional actions that will be
18 implemented by the producer to improve the collection, recovery and
19 recycling systems in the event that the collection program targets are
20 not met.

21 c. The department may, in accordance with a fee schedule adopted
22 as a rule or regulation pursuant to the provisions of the
23 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
24 seq.), establish and charge reasonable fees for any of the services to be
25 performed in connection with this section, which shall cover the full
26 costs incurred by the department for the review of proposed plans and
27 for other costs incurred by the department for implementation of this
28 section.

29 d. Upon a determination by the department that a producer is not
30 meeting the performance standards established pursuant to this act
31 relating to the reduction or elimination of hazardous materials and to
32 the collection and recycling of electronic waste, the department may
33 order the producer to take actions the department deems necessary to
34 achieve the performance standards.

35 e. Any producer that fails to meet any of the requirements of this
36 section within the time frame required shall be prohibited from selling
37 electronic equipment in this State.

38
39 6. (New section) a. No person shall knowingly dispose of
40 electronic waste, including the constituent sub-units or materials
41 comprising the waste, including, but not limited to, lead, mercury,
42 chromium, cadmium, polyvinyl chloride, mixed plastics, beryllium,
43 brominated flame retardants and other hazardous substances, as solid
44 waste.

45 b. No solid waste collector registered pursuant to sections 4 and
46 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5) shall, at any time,

1 knowingly collect electronic waste, including the constituent sub-units
2 or materials comprising the waste, including, but not limited to, lead,
3 mercury, chromium, cadmium, polyvinyl chloride, mixed plastics,
4 beryllium, brominated flame retardants and other hazardous
5 substances, placed for collection and disposal as solid waste.

6 c. A solid waste collector may refuse to collect the contents of a
7 solid waste container containing a visible quantity of electronic waste,
8 including the constituent sub-units or materials comprising the waste,
9 including, but not limited to, lead, mercury, chromium, cadmium,
10 polyvinyl chloride, mixed plastics, beryllium, brominated flame
11 retardants and other hazardous substances.

12 d. No sanitary landfill facility or resource recovery facility in this
13 State shall knowingly accept for disposal any truckload or roll-off
14 container of solid waste containing a visible quantity of electronic
15 waste, including the constituent sub-units or materials comprising the
16 waste, including, but not limited to, lead, mercury, chromium,
17 cadmium, polyvinyl chloride, mixed plastics, beryllium, brominated
18 flame retardants and other hazardous substances, at any time.

19 e. The owner or operator of a sanitary landfill facility or resource
20 recovery facility may refuse to accept for disposal any truckload or
21 roll-off container of solid waste containing a visible quantity of
22 electronic waste, including the constituent sub-units or materials
23 comprising the waste, including, but not limited to, lead, mercury,
24 chromium, cadmium, polyvinyl chloride, mixed plastics, beryllium,
25 brominated flame retardants and other hazardous substances.

26

27 7. (New section) a. Within 12 months of the effective date of this
28 act, every producer of electronic equipment sold, offered for sale, or
29 offered for promotional purposes in this State shall phase-out the use
30 of lead, mercury, cadmium, hexavalent chromium, brominated flame
31 retardants, and polyvinyl chloride and only offer for sale electronic
32 equipment that contain less harmful alternatives.

33 b. If a producer provides sufficient demonstration to the
34 department that it is technically impossible to use an alternative
35 substance, a limited term exemption may be issued by the department.
36 An exemption shall be rescinded by the department when the
37 department determines, in writing, that a less harmful alternative for
38 the substance can be used.

39 c. If the exemption is granted by the department, the department
40 may assign a limited amount of time before the exemption expires to
41 ensure that producers are investing in research and development to
42 identify an appropriate less harmful alternative.

43

44 8. (New section) a. Within 12 months of the effective date of this
45 act, all electronic equipment sold, offered for sale, or offered for
46 promotional purposes in this State shall be clearly marked or labeled,

1 or informational materials shall be provided with the new product,
2 which provide consumers and end users with information relating to
3 the following:

4 (1) the hazardous materials contained in the electronic equipment
5 and the parts or sub-units which contain the particular substances;

6 (2) the requirements not to dispose of electronic equipment in
7 sanitary landfill facilities, resource recovery facilities or any other
8 means not approved as part of the producer's electronic waste
9 management plan; and

10 (3) a toll-free phone number and Internet web site address where
11 consumers can obtain information and instructions about the safe
12 collection of the electronic product through the producer's electronic
13 waste management plan.

14 b. As part of an approved electronic waste management plan, a
15 producer shall implement a consumer education plan that will provide
16 consumers with information about:

17 (1) the prohibition on disposal of electronic waste by any means
18 not included as part of the producer' approved electronic waste
19 management plan;

20 (2) the electronic waste return and collection systems available to
21 them;

22 (3) the potential effects on the environment and human health as a
23 result of the presence of hazardous substances contained in electronic
24 equipment and the dangers of improper disposal; and

25 (4) the consumers' and electronic equipment users' roles in
26 contributing to the re-use, recycling, and other forms of electronic
27 waste recovery.

28 c. Within 24 months following implementation of the producer's
29 electronic waste management plan, each producer must demonstrate
30 to the department that it has achieved a level of 85% public awareness
31 of the program for each of its covered product categories through
32 independent public polling. Producers may collectively undertake such
33 a demonstration of public awareness provided that the polling
34 instrument is designed to identify public awareness of a majority of
35 producers' programs or a majority of the electronic equipment types
36 covered by this act. The design, protocols and implementation plan
37 for the opinion polling required in this section must be approved by the
38 department.

39 d. As part of an approved electronic waste management plan, and
40 to facilitate the environmentally-sound management of electronic
41 waste, every producer shall demonstrate to the department that
42 adequate measures have been taken to provide information to recyclers
43 concerning the producer's electronic equipment. No later than 12
44 months after new electronic equipment enters the market, producers
45 shall provide new information to recyclers regarding the end-of-life
46 treatment of the new product relating to disassembly, material content,

1 and safety concerns.

2

3 9. (New section) a. All persons collecting, recovering, and
4 recycling electronic waste as part of an approved electronic waste
5 management plan shall protect the health and safety of their workers
6 and contractors by:

7 (1) providing clear evidence to the department, in writing, of
8 compliance with all State and federal occupational safety and health
9 laws and regulations;

10 (2) performing routine industrial hygiene monitoring and quarterly
11 reporting for all facilities for all hazardous materials of concern,
12 including, but not limited to, monitoring for airborne lead and
13 bromine, chlorine, and mercury compounds; and

14 (3) performing routine human health monitoring and quarterly
15 reporting in accordance with all applicable privacy protections for all
16 workers and contractors, including, but not limited to, blood testing
17 for exposure to lead and bromine, chlorine, and mercury compounds.

18 b. No approved electronic waste management plan may include
19 reliance on prison labor unless all incarcerated workers involved in the
20 processing and recycling of electronic waste are provided with
21 compensation equivalent to market rate wages for the work performed
22 and are afforded the protections of federal and State occupational
23 safety and health laws and regulations, as well as the additional worker
24 safety and health protections required by this act.

25

26 10. (New section) a. No person who collects, recovers, treats,
27 processes, or recycles electronic waste shall export electronic waste
28 to any country where the export of hazardous waste is prohibited by
29 the Basel Ban Amendment decision (Decision III/1) of the Basel
30 Convention on the Control of Transboundary Movement of Hazardous
31 Waste and Their Disposal.

32 b. No later than January 1 of each year, every producer shall
33 submit to the department written documentation, in a form and manner
34 determined by the department, that the implementation of the
35 producer's approved electronic waste management plan has not
36 resulted in the overseas export of electronic waste to any country
37 prohibited by this section.

38

39 11. (New section) a. The provisions of P.L.1971, c.257
40 (C.52:34-21 et seq.) or any rules and regulations adopted pursuant
41 thereto to the contrary notwithstanding, no later than 6 months
42 following the effective date of this act the Director of the Division of
43 Purchase and Property in the Department of the Treasury shall
44 establish purchasing and procurement policies requiring vendors of
45 electronic equipment sold to the State to take back electronic waste
46 when the equipment becomes obsolete, is discarded or is otherwise

1 taken out of service.

2 b. Notwithstanding other policies or guidelines for the procurement
3 of equipment, supplies and other products, the Director of the
4 Division of Purchase and Property in the Department of the Treasury
5 shall, upon consultation with the department, review and modify all bid
6 and product specifications relating to the purchase of electronic
7 equipment so that the specifications do not discriminate against, but
8 encourage the maximum purchase of electronic equipment that meets
9 the environmental performance standards established pursuant to this
10 act relating to the reduction or elimination of hazardous materials.

11

12 12. (New section) a. The electronic waste management plans
13 required pursuant to this act shall be submitted to, reviewed by, and
14 approved or disapproved by the department on a timely basis. Plans
15 shall be evaluated based upon their sufficiency in light of all the
16 required elements and the department shall develop a means for
17 scoring initial submission and providing feedback to producers for
18 integration into their final approved electronic waste management
19 plans.

20 b. Reports detailing performance of the producer's financial
21 responsibility program and detailing compliance with all the
22 requirements set forth herein shall be submitted to the department no
23 later than January 1 of each year. All such reports shall be reviewed
24 within 6 months of their submission and notices of deficiency or
25 noncompliance provided by the department to producers by the end of
26 the following quarter.

27 c. Annual reports required under this section, and all other reports
28 outlining the results of the implementation of a producer's electronic
29 waste management plan for the current year and 2 prior years, shall be
30 made available to the general public through the Internet, or upon
31 request, at cost.

32

33 13. (New section) Each person has the right to a healthful
34 environment and protection from contamination resulting from the
35 disposal of electronic waste. Any person may enforce this right, as
36 well as enforce the provisions and requirements of this act, against any
37 party, government or private, through appropriate legal proceedings,
38 including declaratory and equitable relief, civil penalties, and
39 restoration damages, to protect the public health and environment of
40 the State of New Jersey from pollution, impairment or destruction
41 resulting from the unlawful disposal of electronic waste. The court
42 may award the full costs of litigation, including, but not limited to,
43 reasonable expert witness and attorneys' fees, to the plaintiffs should
44 they prevail. This provision is supplementary to existing rights and
45 procedures provided by law.

1 14. (New section) The department shall adopt, pursuant to the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.), rules and regulations as are necessary to effectuate the purposes
4 of this act.

5
6 15. (New section) It is the intent of the Legislature that, except as
7 otherwise specifically provided in this act, in the event of any conflict
8 or inconsistency in the provisions of this act and any other acts
9 pertaining to matters herein established or provided for or in any rules
10 and regulations adopted under this act and under any other acts, to the
11 extent of such conflict or inconsistency, the provisions of this act and
12 the rules and regulations adopted hereunder shall be enforced and the
13 provisions of such other acts and rules and regulations adopted
14 thereunder shall be of no effect.

15
16 16. (New section) The provisions of this act shall be severable,
17 and if any section, part, phrase, or provision of this act or the
18 application thereof to any person be adjudged invalid by any court of
19 competent jurisdiction, such judgment shall be confined in its
20 operation to the section, part, phrase, provision, or application directly
21 involved in the controversy in which the judgment shall have been
22 rendered and it shall not affect or impair the validity of the remainder
23 of this act or the application thereof to other persons.

24
25 17. (New section) The object, design and purpose of this act being
26 the protection of the environment and public health through the proper
27 and environmentally-sound management of electronic waste in this
28 State, and the maintenance of a proper balance, as provided herein,
29 between competing public and private interests, this act shall be
30 liberally construed to give effect to the purposes thereof.

31
32 18. Section 16 of P.L.1991, c.521 (C.13:1E-99.74) is amended to
33 read as follows:

34 16. Whenever a county prepares and adopts a district household
35 hazardous waste management plan, the commissioner may require the
36 plan to be adopted as an amendment to the district solid waste
37 management plan required pursuant to the "Solid Waste Management
38 Act," P.L.1970, c.39 (C.13:1E-1 et seq.). Any district household
39 hazardous waste management plan adopted by a county shall be
40 subject to approval by the department.

41 a. Each district household hazardous waste management plan,
42 subject to approval by the department, shall identify the county
43 strategy or strategies for the collection and disposal of household
44 hazardous waste, which shall, at a minimum:

45 (1) provide for the collection and disposal of used mercuric oxide
46 batteries, nickel-cadmium rechargeable batteries and sealed lead

1 rechargeable batteries at least once every 90 days;

2 (2) be consistent with the provisions of the district recycling plan
3 required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13);

4 (3) designate, if necessary, one or more collection sites within the
5 county for household hazardous waste collection and disposal; and

6 (4) include such other information as may be prescribed in rules or
7 regulations of the department.

8 b. A district household hazardous waste management plan, subject
9 to approval by the department, may provide for the collection and
10 disposal of any used dry cell batteries, cathode ray tubes from used
11 computer monitors or television sets, or other forms of electronic
12 waste. For the purposes of this section, "electronic equipment" means
13 equipment that is dependent on electric currents electromagnetic fields
14 in order to work properly and contains one or more printed circuit
15 boards, including, but not limited to, computer equipment including
16 cathode ray tubes, display monitors, central processing units,
17 keyboards, printers, computer peripherals; display monitors, and
18 displays; telecommunication equipment including telephones, cellular
19 telephones, facsimile machines, answering machines; small electronic
20 devices and appliances containing one or more circuit boards; video
21 and stereo equipment; televisions, toys, games and educational devices
22 containing one or more printed circuit boards; and major household
23 appliances containing one or more printed circuit boards; and
24 "electronic waste" means electronic equipment which has been
25 discarded, become obsolete, ceased to function, is no longer wanted
26 by its owner, or for any other reason has become available for
27 recycling or disposal.

28 c. Household hazardous waste shall be collected, stored and
29 transported in accordance with all applicable standards for such wastes
30 adopted as rules or regulations by the department pursuant to
31 P.L.1970, c.39, or as prescribed under any other applicable federal or
32 State law.

33 d. The department may use a portion of the moneys available in the
34 State Recycling Fund pursuant to paragraph (2) of subsection b. of
35 section 5 of P.L.1981, c.278 (C.13:1E-96) for the purposes of
36 providing to counties technical assistance and training in proper used
37 dry cell battery management.

38 (cf: P.L.2002, c.106, s.6)

39

40 19. This act shall take effect immediately.

41

42

43

STATEMENT

44

45 This bill, the "Electronic Waste Producer Responsibility Act," shifts
46 the financial responsibility for the collection and recycling of discarded

1 electronic waste from the taxpayers of New Jersey to the producers of
2 electronic equipment.

3 "Electronic equipment" is defined as equipment that is dependent
4 on electric currents electromagnetic fields in order to work properly
5 and contains one or more printed circuit boards, including, but not
6 limited to, computer equipment including cathode ray tubes, display
7 monitors, central processing units, keyboards, printers, computer
8 peripherals; display monitors, and displays; telecommunication
9 equipment including telephones, cellular telephones, facsimile
10 machines, answering machines; small electronic devices and appliances
11 containing one or more circuit boards; video and stereo equipment;
12 televisions, toys, games and educational devices containing one or
13 more printed circuit boards; and major household appliances
14 containing one or more printed circuit boards.

15 "Electronic waste" is defined as electronic equipment which has
16 been discarded, become obsolete, ceased to function, is no longer
17 wanted by its owner, or for any other reason has become available for
18 recycling or disposal.

19 Within 24 months of the effective date of the act, every producer
20 of electronic equipment sold, offered for sale, or offered for
21 promotional purposes in New Jersey must prepare and submit an
22 electronic waste management plan, in writing, to the Department of
23 Environmental Protection (DEP) for implementing a program for
24 financing the environmentally-sound management of discarded and
25 obsolete electronic equipment, including orphan electronic waste and
26 historic electronic waste.

27 A "producer" is defined as any person that, either as of the effective
28 date of the act or thereafter, and regardless of the selling technique
29 used, including by means of distance communication: (1) manufactures
30 and sells electronic equipment under its own brand; (2) manufactures
31 and sells electronic equipment without affixing a brand; (3) resells
32 electronic equipment produced by other suppliers under its own brand
33 and label; or (4) imports or exports electronic equipment into this
34 State.

35 "Historic electronic waste" is defined as electronic equipment which
36 became electronic waste prior to the effective date of this act, the
37 producer of which is a business concern still in business as of the
38 effective date of this act.

39 "Orphan electronic waste" is defined as electronic waste
40 manufactured by or bearing the brand name of a business concern
41 which is no longer in business as of the effective date of this act.

42 Every producer shall be responsible for financing the
43 environmentally-sound management of the electronic waste from its
44 own products, but may execute this obligation through individual
45 financing schemes or in cooperation with other producers.

46 Consumers and electronic equipment end users may be responsible

1 for delivering electronic waste into the collection system, as may be
2 provided for in the producer's electronic waste management plan.
3 Consumers will not be charged to return electronic waste.

4 Any producer that fails to implement a financial responsibility
5 program within the time provided for in the act shall be prohibited
6 from selling its products in this State.

7 Within 6 months of the effective date of the act, every producer
8 must prepare and submit an electronic waste management plan, in
9 writing, to the DEP, which is designed to meet the producer's
10 responsibilities under the act.

11 Each electronic waste management plan submitted by a producer
12 must provide, at a minimum, that the producer will participate in a
13 national collection program for computer products and cathode ray
14 tubes that will be fully implemented in this State no later than 6
15 months following the effective date of the act, and that the collection
16 program will be consistent with the requirements of the act and with
17 the performance standards established by the DEP.

18 The DEP cannot approve an electronic waste management plan
19 unless it finds, in writing, that the plan, or the collection program, will
20 provide:

21 (1) An effective system for financing the collection, treatment,
22 recovery, re-use, and disposition of all electronic equipment sold,
23 offered for sale, or offered for promotional purposes in this State by
24 the producer;

25 (2) A plan for financing that producer's share of orphan electronic
26 waste and historic electronic waste in this State, as determined by the
27 DEP, as of the effective date of the producer's financial obligation;

28 (3) A plan for complying with the labeling, consumer notification,
29 and public education requirements of the act that are necessary to
30 ensure the protection of electronic equipment users, processors and
31 recyclers, and ensure participation in the producer's plan;

32 (4) Documentation of the willingness of all necessary parties
33 involved to implement the proposed plan, and assurances that the plan
34 will comply with all applicable State and local environmental laws and
35 regulations;

36 (5) A description of the performance measures to be used and
37 reported by the producer to the DEP to demonstrate that the
38 collection system is meeting the measures of the collection program's
39 effectiveness required by the DEP; and

40 (6) A description of the alternative or additional actions that will be
41 implemented by the producer to improve the collection, recovery and
42 recycling systems in the event that the collection program targets are
43 not met.

44 The DEP may, in accordance with a fee schedule adopted as a rule
45 or regulation, establish and charge reasonable fees for any of its
46 services, which shall cover the full costs incurred by the DEP for the

1 review of proposed plans and for other costs incurred by the DEP for
2 implementation of the act.

3 Upon a determination by the DEP that a producer is not meeting
4 the performance standards established under the act relating to the
5 reduction or elimination of hazardous materials and to the collection
6 and recycling of electronic waste, the DEP may order the producer to
7 take actions the DEP deems necessary to achieve the performance
8 standards. Any producer that fails to meet any of these requirements
9 within the time frame required will be prohibited from selling
10 electronic equipment in this State.

11 Within 12 months of the effective date of the act, every producer
12 must phase-out the use of lead, mercury, cadmium, hexavalent
13 chromium, brominated flame retardants, and polyvinyl chloride and
14 only offer for sale electronic equipment that contain less harmful
15 alternatives. If a producer provides sufficient demonstration to the
16 DEP that it is technically impossible to use an alternative substance,
17 the DEP may issue a limited term exemption. The exemption will be
18 rescinded when the DEP determines, in writing, that a less harmful
19 alternative for the substance can be used. If the DEP grants an
20 exemption, the DEP may assign a limited amount of time before the
21 exemption expires to ensure that producers are investing in research
22 and development to identify an appropriate less harmful alternative.

23 Within 12 months of the effective date of the act, all electronic
24 equipment sold, offered for sale, or offered for promotional purposes
25 in New Jersey must be clearly marked or labeled, or informational
26 materials must be provided with the new product, which provide
27 consumers and end users with information relating to the following:

28 (1) the hazardous materials contained in the electronic equipment
29 and the parts or sub-units which contain the particular substances;

30 (2) the requirements not to dispose of electronic equipment in
31 sanitary landfill facilities, resource recovery facilities or any other
32 means not approved as part of the producer's electronic waste
33 management plan; and

34 (3) a toll-free phone number and Internet web site address where
35 consumers can obtain information and instructions about the safe
36 collection of the electronic product through the producer's electronic
37 waste management plan.

38 As part of an approved electronic waste management plan, a
39 producer must implement a consumer education plan that will provide
40 consumers with information about:

41 (1) the prohibition on disposal of electronic waste by any means
42 not included as part of the producer' approved electronic waste
43 management plan;

44 (2) the electronic waste return and collection systems available to
45 them;

46 (3) the potential effects on the environment and human health as a

1 result of the presence of hazardous substances contained in electronic
2 equipment and the dangers of improper disposal; and

3 (4) the consumers' and electronic equipment users' roles in
4 contributing to the re-use, recycling, and other forms of electronic
5 waste recovery.

6 Within 24 months following implementation of the producer's
7 electronic waste management plan, each producer must demonstrate
8 to the DEP that it has achieved a level of 85% public awareness of the
9 program for each of its covered product categories through
10 independent public polling. Producers may collectively undertake such
11 a demonstration of public awareness provided that the polling
12 instrument is designed to identify public awareness of a majority of
13 producers' programs or a majority of the electronic equipment types
14 covered by the act. The DEP must approve the design, protocols and
15 implementation plan for the opinion polling.

16 As part of an approved electronic waste management plan, and to
17 facilitate the environmentally-sound management of electronic waste,
18 every producer must demonstrate to the DEP that adequate measures
19 have been taken to provide information to recyclers concerning the
20 producer's electronic equipment. No later than 12 months after new
21 electronic equipment enters the market, producers must provide new
22 information to recyclers regarding the end-of-life treatment of the new
23 product relating to disassembly, material content, and safety concerns.

24 This bill is based on substantially similar legislation currently
25 pending in the Rhode Island Legislature.