



House of Representatives

General Assembly

File No. 739

January Session, 2007

Substitute House Bill No. 7249

House of Representatives, May 3, 2007

The Committee on Finance, Revenue and Bonding reported through REP. STAPLES of the 96th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE COLLECTION AND RECYCLING OF COVERED ELECTRONIC DEVICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2007*) As used in sections 1 to
2 10, inclusive, and sections 14 to 18, inclusive, of this act, unless the
3 context indicates another meaning or intent:

4 (1) "Department" means the Department of Environmental
5 Protection;

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

8 (3) "Computer" means an electronic, magnetic, optical,
9 electrochemical, or other highspeed data processing device performing
10 logical, arithmetic or storage function, and may include, but not be
11 limited to, both a computer central processing unit and a monitor, but
12 does not include an automated typewriter or typesetter, a portable

13 handheld calculator, a portable digital assistant or other similar device;

14 (4) "Consumer" means any Connecticut resident giving seven or less
15 covered electronic devices to a collector at any one time;

16 (5) "Covered Electronic Device" or "CED" means desktop or
17 personal computers, computer monitors, portable computers, CRT-
18 based televisions and non-CRT-based televisions sold to consumers,
19 but does not include: (A) Covered electronic device that is a part of a
20 motor vehicle or any component part of a motor vehicle assembled by,
21 or for, a vehicle manufacturer or franchise dealer, including
22 replacement parts for use in a motor vehicle; (B) a covered electronic
23 device that is functionally or physically a part of a larger piece of
24 equipment designed and intended for use in an industrial, commercial
25 or medical setting, including diagnostic, monitoring or control
26 equipment; (C) a covered electronic device that is contained within a
27 clothes washer, clothes dryer, refrigerator, refrigerator and freezer,
28 microwave oven, conventional oven or range, dishwasher, room air
29 conditioner, dehumidifier or air purifier; or (D) telephones of any type
30 unless they contain a video display area greater than four inches
31 measured diagonally;

32 (6) "Covered electronic recycler" is a recycler that is approved by the
33 department;

34 (7) "Manufacturer" means any person who: (A) Manufactures or
35 manufactured covered electronic devices under a brand that it owns or
36 owned, for sale in this state; (B) manufactures or manufactured
37 covered electronic devices without affixing a brand, for sale in this
38 state; (C) resells or has resold in this state under its own brand or label
39 a covered electronic device produced by other suppliers, including
40 retail establishments that sell covered electronic products under their
41 own brand names; (D) imports or imported into the United States or
42 exports from the United States covered electronic devices for sale in
43 this state; (E) sells at retail a covered electronic device acquired from
44 an importer that is the manufacturer as described in subparagraph (D)
45 of this subdivision, and elects to register in lieu of the importer as the

46 manufacturer for those products; or (F) manufactures or manufactured
47 covered electronic devices, supplies them to any person or persons
48 within a distribution network that includes wholesalers or retailers in
49 this state, and benefits from the sale in this state of those covered
50 electronic devices through such distribution network;

51 (8) "Manufacturer's brands" means a manufacturer's name, brand
52 name or brand label, and all manufacturer's names, brand names and
53 brand labels for which the manufacturer has legal responsibility,
54 including those names, brand names and brand labels of companies
55 that have been acquired by the manufacturer;

56 (9) "Monitor" means a separate video display component of a
57 computer, whether sold separately or together with a computer central
58 processing unit or computer box, and includes a cathode ray tube,
59 liquid crystal display, gas plasma, digital light processing or other
60 image projection technology greater than four inches when measured
61 diagonally, and its case, interior wires and circuitry;

62 (10) "Obligation" means the quantity of covered electronic devices,
63 by weight, identified for each registrant, as defined by the department
64 under section 4 of this act;

65 (11) "Person" means an individual, trust firm, joint stock company,
66 business concern and corporation, including, but not limited to, a
67 government department, partnership, limited liability company or
68 association;

69 (12) "Portable computer" means a computer and video display
70 greater than four inches in size that can be carried as one unit by an
71 individual, including, but not limited to, a laptop computer;

72 (13) "Purchase" means the taking, by sale, of title in exchange for
73 consideration;

74 (14) "Recycling" means any process by which covered electronic
75 devices that would otherwise become solid waste or hazardous waste
76 are collected, separated and processed to be returned to use in the

77 form of raw materials or products, in accordance with environmental
78 standards established by the department;

79 (15) "Registrant" means a manufacturer or group of manufacturers
80 of covered electronic devices that is in compliance with the
81 requirements of sections 1 to 10, inclusive, and sections 14 to 18,
82 inclusive, of this act;

83 (16) "Retail sales" includes sales of products through sales outlets,
84 via the Internet, mail order or other means, whether or not the seller
85 has a physical presence in this state;

86 (17) "Retailer" means a person who owns or operates a business that
87 sells new covered electronic devices in this state by any means to a
88 consumer;

89 (18) "Sell" or "sale" means any transfer for consideration of title,
90 including, but not limited to, transactions conducted through sales
91 outlets, catalogs or the Internet, or any other similar electronic means,
92 and excluding leases;

93 (19) "State recycling rate" means the ratio of the weight of total
94 overall returns of CEDs in the state to the weight of total overall sales
95 of CEDs in the state during the previous calendar year;

96 (20) "Television" means a stand-alone display system containing a
97 CRT or any other type of display primarily intended to receive video
98 programming via broadcast, having a viewable area greater than four
99 inches when measured diagonally, able to adhere to standard
100 consumer video formats such as PAL, SECAM, NTSC and HDTV and
101 having the capability of selecting different broadcast channels and
102 support sound capability;

103 (21) "Video display" means an output surface having a viewable
104 area greater than four inches when measured diagonally that displays
105 moving graphical images or a visual representation of image
106 sequences or pictures, showing a number of quickly changing images
107 on a screen in fast succession to create the illusion of motion,

108 including, but not limited to, a device that is an integral part of the
109 display that cannot be easily removed from the display by the
110 consumer and that produces the moving image on the screen and
111 includes technology using a cathode ray tube, liquid crystal display,
112 gas plasma, digital light processing or other image projection
113 technology;

114 (22) "Orphan device" means a covered electronic device for which
115 no manufacturer, as defined in this section, can be identified;

116 (23) "Return share" means the proportion of covered electronic
117 devices for which an individual manufacturer is responsible to collect,
118 transport and recycle, as determined by the department pursuant to
119 section 4 of this act;

120 (24) "Third Party Organization, Incorporated" or "TPO" means the
121 corporation created in section 10 of this act to develop, implement and
122 finance a program for the collection, transportation and recycling of
123 covered electronic devices on behalf of the manufacturers participating
124 in the third party organization.

125 Sec. 2. (NEW) (*Effective October 1, 2007*) (a) On and after June 1, 2009,
126 all manufacturers selling covered electronic devices, as defined in
127 section 1 of this act, in this state shall comply with the requirements of
128 sections 1 to 10, inclusive, and sections 14 to 18, inclusive, of this act.

129 (b) Not later than March 1, 2009, the Department of Environmental
130 Protection shall post a list of all manufacturers in compliance with the
131 requirements of sections 1 to 10, inclusive, and sections 14 to 18,
132 inclusive, of this act on said department's Internet web site and shall
133 maintain such list after said date. Retailers shall consult the list prior to
134 selling covered electronic devices. A retailer shall not offer for sale in
135 this state a covered electronic device of a manufacturer that is not in
136 compliance with this section. A retailer shall be considered to have
137 complied with this responsibility if, on the date that the product was
138 ordered from the manufacturer or its agent, the manufacturer was
139 listed as being in compliance on said department's Internet web site.

140 Sec. 3. (NEW) (*Effective October 1, 2007*) On and after January 1, 2008,
141 a manufacturer or retailer shall not sell or offer for sale a covered
142 electronic product in the state unless it is labeled with the
143 manufacturer's brand, and the label is permanently affixed and readily
144 visible.

145 Sec. 4. (NEW) (*Effective October 1, 2007*) (a) Each manufacturer of
146 covered electronic devices shall register with the Department of
147 Environmental Protection not later than January 1, 2008, and annually
148 thereafter, on a form prescribed by the Commissioner of
149 Environmental Protection and accompanied by a fee set by the
150 Commissioner of Environmental Protection in accordance with this
151 section and any regulations adopted pursuant to this section. Not less
152 than every two years, the department shall review, at a public hearing,
153 the CED recycling and registration fees. The department shall use the
154 revenues received from registrants for the purposes of carrying out the
155 provisions of sections 2 to 9, inclusive, and sections 14 to 18, inclusive,
156 of this act.

157 (b) Not later than January 1, 2008, those manufacturers with a
158 market share of one per cent or more shall pay a registration fee of five
159 thousand dollars that shall be used to cover the costs for the
160 department to administer this program. Commencing January 1, 2009,
161 all manufacturers shall pay an annual registration fee as determined
162 by the department in accordance with subsection (c) of this section.

163 (c) Not later than October 1, 2008, the department shall adopt
164 regulations, in accordance with the provisions of chapter 54 of the
165 general statutes, to establish annual registration and reasonable fees
166 for administering the program established in sections 1 to 10, inclusive,
167 and sections 14 to 18, inclusive, of this act. All fees charged shall be
168 based on factors relative to the costs of administering such program
169 and be based on a sliding scale that is representative of the
170 manufacturer's revenue market share of covered electronic products in
171 the state. Market share information shall be based on available national
172 market share data. Fees shall be established in amounts to fully cover

173 but not to exceed expenses incurred by the department for the
174 implementation of such program.

175 (d) Not later than March first of each year, the department shall
176 provide each registrant with its obligation for the following year. The
177 department shall determine registrant obligations using an equitable
178 method based on return share. The total of all registrant obligations
179 shall meet the state recycling goals as determined by the department in
180 accordance with section 9 of this act. The responsibility for orphan
181 products shall be shared by all registrants. Such responsibility shall be
182 prorated based on the return share of each registrant.

183 Sec. 5. (NEW) (*Effective October 1, 2007*) (a) On and after October 1,
184 2009, each manufacturer shall participate in a program to implement
185 and finance the collection, transportation and recycling of covered
186 electronic devices. A manufacturer shall participate in the TPO
187 established in section 10 of this act, unless the manufacturer or a group
188 of manufacturers obtains department approval for an independent
189 plan that represents at least five per cent of the return share of the
190 covered electronic devices for the previous year.

191 (b) The TPO plan or each independent plan shall be submitted to the
192 department for review not later than October 1, 2009, and each such
193 plan shall be subject to the following requirements: (1) An individual
194 manufacturer submitting a plan shall collect, transport and recycle a
195 quantity of covered electronic devices equivalent to such
196 manufacturer's obligation; (2) a group of manufacturers jointly
197 submitting a plan shall collect, transport and recycle the sum of the
198 obligations of each participating manufacturer; (3) the plan shall be
199 filed with a manufacturer's annual registration and shall include: (A)
200 The methods that will be used to collect the covered electronic devices,
201 including, but not limited to, the name and locations of all collection
202 and consolidation points; (B) an estimate of the amount of covered
203 electronic devices that will be collected annually; (C) the processes and
204 methods that will be used to recycle recovered covered electronic
205 devices, including a description of the disassembly and physical

206 recovery operation such as crushing, shredding, grinding, glass-to-
207 glass recycling or other operations that will be used; and (D) the name
208 and location of all facilities to be utilized; (4) the plan shall contain
209 documentation of audits of each processor used in the plan and
210 compliance with processing standards established in section 10 of this
211 act; (5) the plan shall contain a description of the accounting and
212 reporting systems that will be employed to track progress toward
213 fulfilling the plan's obligations; (6) the plan shall describe the means
214 that will be utilized to publicize the collection opportunities; and (7)
215 the plan shall state the total weight of CEDs collected, transported and
216 recycled the previous year.

217 (c) The department may reject the plan in part or in whole and may
218 impose additional requirements as a condition of approval.

219 Sec. 6. (NEW) (*Effective October 1, 2007*) (a) On and after July 1, 2010,
220 if a manufacturer fails to comply with all the conditions and terms of
221 an approved plan, the manufacturer shall be required to submit the
222 following: (1) A payment to the TPO or, if such manufacturer is a
223 participant in an independent plan, to such independent plan, to cover
224 the cost of collecting, transporting and recycling the unmet portion of
225 its obligation. The payment shall be equal to the following formula:
226 The quantity of the outstanding portion, in pounds, multiplied by not
227 more than fifty cents; and (2) a penalty in the form of a payment equal
228 to the cost of collecting, transporting and recycling ten per cent of the
229 manufacturer's total obligation.

230 (b) Manufacturers that collect, transport and recycle covered
231 electronic devices in excess of their obligation may sell credits to
232 another registrant.

233 Sec. 7. (NEW) (*Effective October 1, 2007*) (a) On and after July 1, 2010,
234 a retailer shall clearly post information provided by the Department of
235 Environmental Protection that describes where and how to recycle the
236 covered electronic device and opportunities and locations for the
237 collection or return of the device, through the use of a toll-free
238 telephone number and Internet web site, information included in the

239 packaging, or information provided accompanying the sale of the
240 covered electronic device. This information shall be provided in a clear
241 written form in English and any other languages deemed to be
242 primary languages by the Department of Education.

243 (b) No fees or costs may be charged to consumers for the collection,
244 transportation or recycling of covered electronic products.

245 Sec. 8. (NEW) (*Effective October 1, 2007*) (a) On and after July 1, 2010,
246 the TPO, established under section 10 of this act, and registrants shall
247 organize, administer and ensure that at least one electronics collection
248 opportunity is available not less than five days a week in each county
249 throughout the state and every municipality with a population of ten
250 thousand or more as determined by the most recent federal decennial
251 census and in such a manner as to be convenient, to the extent feasible,
252 to all consumers in the county.

253 (b) The TPO and registrants shall encourage the use of existing
254 infrastructures for handling CEDs to the extent that this infrastructure
255 is accessible on a regular and ongoing basis to at least eighty-five per
256 cent of the population of the state, is cost effective and meets the
257 environmentally sound management requirements of section 14 of this
258 act.

259 (c) The TPO and registrants shall organize and coordinate public
260 education and outreach.

261 Sec. 9. (NEW) (*Effective October 1, 2007*) (a) Not later than October 1,
262 2010, and every three years thereafter, the Department of
263 Environmental Protection shall prepare an electronics recycling plan
264 that establishes state-wide per-capita collection and recycling goals
265 and identifies any necessary actions to achieve such goals. Such report
266 shall be posted on the department's web site and a copy of such report
267 submitted, in accordance with the provisions of section 11-4a of the
268 general statutes, to the joint standing committee of the General
269 Assembly having cognizance of matters relating to the environment.

270 (b) Not later than October 1, 2010, and annually thereafter, the
271 department shall gather information from registrants and prepare a
272 report regarding the status of the electronics recycling program, that
273 shall be submitted to the joint standing committee of the General
274 Assembly having cognizance of matters relating to the environment, in
275 accordance with the provisions of section 11-4a of the general statutes.
276 Such report shall contain: (1) Sufficient data, as determined by the
277 department, and analysis of such data to evaluate the effectiveness of
278 the state-wide recycling program and the components of such
279 program, and (2) if at any time the federal government establishes a
280 national program for the collection and recycling of electronic devices
281 and the department determines that the federal law substantially
282 meets or exceeds the requirements of sections 1 to 10, inclusive, and
283 sections 14 to 18, inclusive, of this act, information on the federal law.

284 (c) The program implemented to effect the provisions of sections 1
285 to 10, inclusive, and sections 14 to 16, inclusive, of this act and its
286 associated regulations shall be fully audited by an independent,
287 certified public accountant at the end of each calendar year and said
288 audit report submitted to the General Assembly.

289 Sec. 10. (NEW) (*Effective October 1, 2007*) (a) On June 1, 2008, there
290 shall be created a body politic and corporate to be known as "Third
291 Party Organization, Incorporated" or "TPO". Such corporation is
292 constituted a public instrumentality and political subdivision of the
293 state and the exercise by the corporation of the powers conferred in
294 this chapter shall be deemed and held to be the performance of an
295 essential public and governmental function. The Third Party
296 Organization, Incorporated, shall not be construed to be a department,
297 institution or agency of the state. The TPO shall act as a business
298 management organization on behalf of the citizens of the state to
299 contract with other entities for the collection, transportation and
300 recycling of covered electronic devices. The TPO shall collect, transport
301 and recycle or arrange for such collection, transport or recycling of the
302 sum of the obligations of each participating manufacturer.

303 (b) The corporation shall be governed by a board of fifteen directors,
304 comprised of manufacturers participating in the TPO electronics
305 recycling program. Eight members of the board shall be appointed by
306 the Governor, at least three of whom shall be television manufacturers
307 and at least three of whom shall be computer manufacturers. One
308 member shall be the Commissioner of Environmental Protection who
309 shall serve ex officio and shall have all of the powers and privileges of
310 a member of the board of directors. Said commissioner may designate
311 a deputy or a member of the commissioner's staff to represent the
312 commissioner at meetings of the corporation with full power to act and
313 vote on behalf of the commissioner. Six members shall be appointed as
314 follows: Two members by the president pro tempore of the Senate, one
315 member by the minority leader of the Senate, two members by the
316 speaker of the House of Representatives and one member by the
317 minority leader of the House of Representatives. Of the appointed
318 members, at least one shall represent a small manufacturing company
319 that employs less than seventy-five employees, at least one shall
320 represent a mid-sized manufacturing company that employs more
321 than seventy-five employees and less than three hundred employees
322 and at least one shall represent a large manufacturing company that
323 employs three hundred employees or more. Each appointed member
324 shall serve in accordance with the provisions of section 4-1a of the
325 general statutes. A director shall be eligible for reappointment. The
326 Governor shall fill any vacancy for the unexpired term of a member
327 appointed by the Governor. The appropriate legislative appointing
328 authority shall fill any vacancy for the unexpired term of a member
329 appointed by such authority. Each appointing authority shall make
330 such appointment in accordance with this section not later than
331 December 1, 2008.

332 (c) The Governor shall appoint a chairperson for the board from its
333 membership. The directors shall annually elect one of their number as
334 secretary. The board may elect such other officers of the board as it
335 deems proper. Members shall receive no compensation for the
336 performance of their duties hereunder but shall be reimbursed for
337 necessary expenses incurred in the performance thereof.

338 (d) The board of directors of the corporation shall adopt written
339 procedures relating to the management of the affairs of the TPO.

340 (e) The TPO shall have the authority to contract with the
341 Department of Environmental Protection for administrative or other
342 services.

343 Sec. 11. (NEW) (*Effective January 1, 2007*) (a) Commencing June 1,
344 2008, the TPO shall assess charges against each manufacturer
345 participating in the TPO and collect funds from each participating
346 manufacturer for the manufacturer's portion of the costs. Such
347 apportionment shall be based on return share, market share, any
348 combination of return share and market share, or some other equitable
349 method as necessary in order to ensure that all costs associated with
350 the collection, transportation and recycling of covered electronic
351 devices are covered.

352 (b) Commencing June 1, 2008, the TPO may require that
353 manufacturers participating in the TPO file a surety bond or other
354 security deemed sufficient by the TPO when determining equitable
355 methods for apportioning costs to ensure that the long-term costs for
356 collection, transportation and recycling of covered electronic devices
357 are assumed by the appropriate manufacturer in the event that the
358 manufacturer ceases to participate in the program.

359 (c) If a manufacturer has not met its financial obligations under this
360 section, the TPO shall notify the Department of Environmental
361 Protection that such manufacturer is no longer participating in the
362 TPO plan.

363 (d) No state funds shall be appropriated or expended for the
364 operating costs of the TPO, except that the state, acting through the
365 Commissioner of Environmental Protection, may make a one-time loan
366 to the corporation for the purpose of covering the initial administrative
367 costs associated with the establishment of the corporation, but not for
368 collection, transportation or recycling services.

369 Sec. 12. Section 1-120 of the general statutes is repealed and the
370 following is substituted in lieu thereof (*Effective October 1, 2007*):

371 As used in sections 1-120 to 1-123, inclusive:

372 (1) "Quasi-public agency" means the Connecticut Development
373 Authority, Connecticut Innovations, Incorporated, Third Party
374 Organization, Incorporated, Connecticut Health and Educational
375 Facilities Authority, Connecticut Higher Education Supplemental Loan
376 Authority, Connecticut Housing Finance Authority, Connecticut
377 Housing Authority, Connecticut Resources Recovery Authority,
378 Capital City Economic Development Authority and Connecticut
379 Lottery Corporation.

380 (2) "Procedure" means each statement, by a quasi-public agency, of
381 general applicability, without regard to its designation, that
382 implements, interprets or prescribes law or policy, or describes the
383 organization or procedure of any such agency. The term includes the
384 amendment or repeal of a prior regulation, but does not include,
385 unless otherwise provided by any provision of the general statutes, (A)
386 statements concerning only the internal management of any agency
387 and not affecting procedures available to the public and (B) intra-
388 agency memoranda.

389 (3) "Proposed procedure" means a proposal by a quasi-public
390 agency under the provisions of section 1-121 for a new procedure or
391 for a change in, addition to or repeal of an existing procedure.

392 Sec. 13. Section 1-125 of the general statutes is repealed and the
393 following is substituted in lieu thereof (*Effective October 1, 2007*):

394 The directors, officers and employees of the Connecticut
395 Development Authority, Connecticut Innovations, Incorporated, Third
396 Party Organization, Incorporated, Connecticut Higher Education
397 Supplemental Loan Authority, Connecticut Housing Finance
398 Authority, Connecticut Housing Authority, Connecticut Resources
399 Recovery Authority, including ad hoc members of the Connecticut

400 Resources Recovery Authority, Connecticut Health and Educational
401 Facilities Authority, Capital City Economic Development Authority
402 and Connecticut Lottery Corporation and any person executing the
403 bonds or notes of the agency shall not be liable personally on such
404 bonds or notes or be subject to any personal liability or accountability
405 by reason of the issuance thereof, nor shall any director or employee of
406 the agency, including ad hoc members of the Connecticut Resources
407 Recovery Authority, be personally liable for damage or injury, not
408 wanton, reckless, wilful or malicious, caused in the performance of his
409 or her duties and within the scope of his or her employment or
410 appointment as such director, officer or employee, including ad hoc
411 members of the Connecticut Resources Recovery Authority. The
412 agency shall protect, save harmless and indemnify its directors,
413 officers or employees, including ad hoc members of the Connecticut
414 Resources Recovery Authority, from financial loss and expense,
415 including legal fees and costs, if any, arising out of any claim, demand,
416 suit or judgment by reason of alleged negligence or alleged
417 deprivation of any person's civil rights or any other act or omission
418 resulting in damage or injury, if the director, officer or employee,
419 including ad hoc members of the Connecticut Resources Recovery
420 Authority, is found to have been acting in the discharge of his or her
421 duties or within the scope of his or her employment and such act or
422 omission is found not to have been wanton, reckless, wilful or
423 malicious.

424 Sec. 14. (NEW) (*Effective October 1, 2007*) (a) On and after July 1,
425 2010, covered electronic devices collected through any program in
426 Connecticut, whether by manufacturers, retailers, for-profit or not-for-
427 profit corporations, units of government or organized by the
428 department, shall be recycled in a manner that is in compliance with
429 all applicable federal, state and local laws, regulations and ordinances,
430 and shall not be exported for disposal in a manner that poses a
431 significant risk to the public health or to the environment.

432 (b) The department shall establish performance requirements in
433 order for collectors, transporters and recyclers to be eligible to receive

434 funds from the department. All entities shall, at a minimum,
435 demonstrate compliance with the United States Environmental
436 Protection Agency's Plug-In to eCycling Guidelines for Materials
437 Management as issued and available on said agency's Internet web site
438 in addition to any other requirements mandated by state or federal
439 law.

440 Sec. 15. (NEW) (*Effective October 1, 2007*) On and after January 1,
441 2011, no person shall place a covered electronic device or any of the
442 components or subassemblies of such device in any solid waste
443 disposal facility.

444 Sec. 16. (NEW) (*Effective October 1, 2007*) On and after October 1,
445 2010, the Commissioner of Environmental Protection shall have
446 authority to issue cease and desist orders in accordance with section
447 22a-7 of the general statutes for any violation of sections 1 to 10,
448 inclusive, and sections 14 to 16, inclusive, of this act, and to suspend or
449 revoke any registration issued by the commissioner under section 4 of
450 this act upon a showing of cause and after a hearing. The courts may
451 grant such restraining orders and such temporary and permanent
452 injunctive relief as may be necessary to secure compliance with
453 sections 1 to 10, inclusive, and sections 14 to 17, inclusive, of this act.
454 Civil proceedings to enforce sections 1 to 10, inclusive, and sections 14
455 to 16, inclusive, of this act may be brought by the Attorney General in
456 the superior court for any judicial district affected by the violation.
457 Any funds awarded by the court shall be used first to offset
458 enforcement expenses. Any funds awarded in excess of the
459 enforcement expenses shall be deposited with the Department of
460 Environmental Protection.

461 Sec. 17. (NEW) (*Effective July 1, 2007*) The Commissioner of
462 Environmental Protection shall adopt regulations, in accordance with
463 the provisions of chapter 54 of the general statutes, to carry out the
464 provisions of sections 1 to 10, inclusive, and sections 14 to 18, inclusive,
465 of this act.

466 Sec. 18. (NEW) (*Effective from passage*) The department may

467 participate in the establishment and implementation of a regional,
 468 multistate organization or compact to assist in carrying out the
 469 requirements of sections 1 to 10, inclusive, and sections 14 to 17,
 470 inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	New section
Sec. 7	<i>October 1, 2007</i>	New section
Sec. 8	<i>October 1, 2007</i>	New section
Sec. 9	<i>October 1, 2007</i>	New section
Sec. 10	<i>October 1, 2007</i>	New section
Sec. 11	<i>January 1, 2007</i>	New section
Sec. 12	<i>October 1, 2007</i>	1-120
Sec. 13	<i>October 1, 2007</i>	1-125
Sec. 14	<i>October 1, 2007</i>	New section
Sec. 15	<i>October 1, 2007</i>	New section
Sec. 16	<i>October 1, 2007</i>	New section
Sec. 17	<i>July 1, 2007</i>	New section
Sec. 18	<i>from passage</i>	New section

ENV *Joint Favorable Subst. C/R*

FIN

FIN *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Environmental Protection	GF - Cost	See Below	See Below
Department of Environmental Protection	GF - Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill establishes a collection and recycling program for certain electronic devices and provides that manufacturers of these devices pay a registration and annual fees to the Department of Environmental Protection (DEP). The legislation provides that the fees established be used to pay program expenses. However since the legislation does not otherwise specify, it is anticipated that the fees will be deposited into the General Fund, so it is unclear how they would be used to pay DEP expenses. Any future revenue gain to the state due to violations for noncompliance by manufacturers is anticipated to be minimal.

It is anticipated that the DEP would incur up front costs to establish the statewide electronic recycling program established in the bill. Additional resources in the amount of \$50,000 - \$100,000 would be required to adopt the regulations required in the legislation. The DEP would also need 1 - 2 additional analysts starting in FY 08 at an annual cost of \$55,000 - \$110,000 plus fringe benefits¹ and associated program

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate for a new employee as a percentage of average salary is 25.8%, effective July 1, 2006. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The

expenses to undertake the registering, posting, and performance requirements in the bill. DEP would continue to incur annual costs from program implementation.

The bill also creates a new quasi-public agency called Third Party Organization, Incorporated (TPO). The legislation prohibits the use of state funds to pay TPO's operating expenses however, it is unclear what the fiscal impact of allowing a one time loan from the DEP to TPO would have or where and what account the funds would come from.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

SERS 2006-07 fringe benefit rate is 34.4%, which when combined with the non pension fringe benefit rate totals 60.2%.

OLR Bill Analysis**sHB 7249*****AN ACT CONCERNING THE COLLECTION AND RECYCLING OF COVERED ELECTRONIC DEVICES.*****SUMMARY:**

This bill creates a mandatory recycling program for discarded computers and televisions ("covered electronic devices," or devices) starting October 1, 2009. It requires computer and television manufacturers to register with the Department of Environmental Protection (DEP) and take part in a plan to collect, transport, and recycle their share of devices. A manufacturer must pay (1) an annual registration fee to DEP, and (2) its share of recycling costs to a third-party organization (TPO) the bill creates. The bill penalizes noncompliant manufacturers and prohibits retailers from selling devices made by them.

It requires that recycling be free to consumers and, starting January 1, 2011, prohibits anyone from discarding a device at a solid waste disposal facility.

It creates a TPO as a quasi-public agency to operate or contract for operating the recycling program, and assess charges against manufacturers for recycling costs. It requires DEP to calculate the amount of devices, by weight, that each manufacturer must collect, transport, and recycle.

The commissioner must adopt regulations to implement the bill. DEP may help create and implement a regional, multi-state organization or compact to help carry out its provisions.

The bill also makes conforming changes.

EFFECTIVE DATE: October 1, 2007, except that the provision (1)

concerning TPO assessments against manufacturers is effective January 1, 2007; (2) requiring DEP to adopt regulations is effective July 1, 2007, and (3) authorizing DEP to help establish and implement a multi-state organization or compact is effective upon passage.

§ 1 — RECYCLING PROGRAM BASICS

Products That Must be Recycled (Covered Electronic Devices)

The bill applies to devices with video displays larger than four inches when measured diagonally. These include desktop and laptop computers, including their central processing units; cathode ray tube (CRT) and other types of computer monitors; and CRT and other types of televisions.

Excluded Products

The bill excludes devices that are (1) a component or part of a motor vehicle; (2) functionally or physically part of equipment used in an industrial, commercial, or medical setting; or (3) contained in an appliance. The bill also excludes telephones (unless they have a video display larger than four inches diagonally), portable handheld calculators, portable digital assistants and similar devices, and automated typewriters and typesetters.

Manufacturers and Retailers

Under the bill, manufacturers include people who manufacture devices under their own brand or without a brand, resell under their own brand a device made by others, retailers who sell devices under their own names, importers, exporters, and distributors. The bill defines retail sales as sales made in stores, over the Internet, by mail order, and by other means, regardless of whether the seller has a physical presence in the state. However, the bill does not refer to retail sales. The bill does not cover leased devices.

§§ 2-4 — REGISTRATION, LABELING, AND FEES

Starting January 1, 2008, manufacturers (1) can sell only devices clearly and permanently labeled with the manufacturer's brand; (2) must register annually with DEP, using a form the commissioner

prescribes; and (3) must pay DEP the appropriate yearly registration fee. DEP must use the fee to cover the program's administrative costs.

The bill sets the 2008 registration fee at \$5,000 for each manufacturer with at least a 1% market share. It is not clear how market share will be determined for 2008.

DEP Registration and Fee Regulations

By October 1, 2008, DEP must adopt regulations to set subsequent registration and reasonable fees to administer the program, which manufacturers must pay starting January 1, 2009. DEP must base the registration fee on (1) the cost of administering the program and (2) a sliding scale representing a particular manufacturer's share of devices in the state. Although not defined in the bill, market share is generally a manufacturer's share of devices sold. The state must base its market share data on available national market share information. The fees the commissioner sets must cover, but not exceed, the costs of implementing the program. The bill does not specify what happens if the fees exceed the costs.

DEP must review the recycling and registration fees at a public hearing at least biennially and use revenue from the registration fee to implement the recycling program. The recycling fee apparently refers to the TPO's assessment against manufacturers (see below).

DEP List of Complying Manufacturers

Starting March 1, 2009, DEP must post and maintain on its website a list of manufacturers who comply with the bill. The bill requires retailers to consult this list before selling a device and bars them from selling a device made by a noncompliant manufacturer. But a retailer may sell such a device if it ordered it when the manufacturer was listed as compliant.

Manufacturers must comply with the bill's applicable provisions by June 1, 2009.

§§ 5, 6, 10, 11 — RECYCLING PLAN

The bill creates, on June 1, 2008, a TPO as a public instrumentality and political subdivision of the state to perform an essential public and government function. As a quasi-public agency, it is not a state department, agency, or institution. By law, quasi-public agencies are subject to the state Code of Ethics and Freedom of Information Act, among other state laws. The TPO is authorized to contract with (1) other entities to collect, transport, and recycle devices and (2) DEP for administrative or other services. It is governed by a 15-member board of directors (see § 10 below), all but one of whom represent manufacturers participating in the recycling plan. The board must adopt written procedures to manage its affairs.

Starting June 1, 2008, the TPO must assess charges against each manufacturer participating in the recycling program. The charges must be based on return share, market share, a combination of these, or some other equitable method to ensure the assessment covers all costs associated with collecting, transporting, and recycling.

Use of State Funds and Failure to Meet Financial Obligations

The bill prohibits using state funds to pay for the TPO's operating expenses, but authorizes DEP to make a one-time loan to the TPO to cover its initial administrative costs. The TPO cannot use this loan to pay for collection, transportation, or recycling services.

Beginning June 1, 2008, the TPO may require manufacturers to post a bond or other security sufficient to ensure that the appropriate manufacturer assumes the long-term costs of collecting, transporting, and recycling if it stops participating in the recycling program. If a manufacturer does not meet its financial obligations, the TPO must notify DEP that it is no longer participating in the plan.

Recycling Plans

Starting October 1, 2009, manufacturers must participate in a program to implement and finance the collection, transportation, and recycling of devices. They must participate in the TPO plan unless DEP approves their participation in an independent plan. To be eligible to

participate in an independent plan, the amount of devices returned for recycling for a particular manufacturer, or group of manufacturers, must be at least 5% of the total devices returned for recycling the previous year.

Under the plan, an individual manufacturer must collect, transport and recycle an amount of devices, by weight, that DEP determines to be its "obligation." DEP must determine this using an equitable method based on return share (a manufacturer's share of all the devices returned for recycling). DEP must provide each registrant with its obligation for the following year by March 1 annually.

A group of manufacturers jointly submitting a plan must collect, transport, and recycle the sum of their obligations. The total obligation of all registered manufacturers must meet the state recycling goal the bill requires DEP to establish.

The TPO or independent plan must be submitted to DEP for its review by October 1, 2009. The bill requires each manufacturer to file its annual registration with the plan. Apparently manufacturers taking part in a joint plan must file their registration fees together with the joint plan. It is not clear how this requirement would apply to the TPO plan.

DEP may reject the plan in whole or in part, and may impose additional requirements as a condition of approval.

Recycling Plan Requirements

The bill specifies what each plan must include, but it is not clear if the following requirements apply to the TPO plan.

Each recycling plan must include:

1. the methods used to collect the devices, including the names and locations of all collection and consolidation points;
2. an estimate of the amount of devices collected annually;

3. the processes and methods used to recycle recovered devices, including a description of the disassembly and physical recovery operation (such as crushing, shredding, grinding, or glass-to-glass recycling); and
4. the names and locations of all facilities used.

The plan also must include descriptions of (1) the accounting and reporting systems used to track progress in meeting the plan's requirements and (2) the means of publicizing collection opportunities. It must state the total weight of devices collected, transported, and recycled in the previous year, apparently for each participating manufacturer. It must contain documented audits of each processor the plan uses, and proof of compliance with processing standards the bill requires DEP to adopt. (But the provision requiring DEP to adopt these standards is not in the section to which the bill refers.)

Participating manufacturers must share responsibility for "orphan" devices (those for which no manufacturer can be identified) on a prorated basis, based on return share.

Starting July 1, 2010, all collected devices must be recycled according to applicable federal, state, and local laws, regulations, and ordinances, and must not be exported for disposal in a way that poses a significant risk to public health or the environment.

§§ 7, 8 — COLLECTION OPPORTUNITIES

Starting July 1, 2010, retailers selling devices must post information from DEP describing where and how to recycle them, and opportunities and locations for their collection and return. Retailers may provide this information (1) through a toll-free telephone number and on a website, (2) on the device's packaging, or (3) in documentation accompanying the sale of the device. The information must be clearly written in English and any other language the state Department of Education deems a primary language.

Starting July 1, 2010, the TPO and registered manufacturers must

organize, administer, and ensure that at least one collection opportunity is conveniently available at least 5 days each week in each county, and in every town with at least 10,000 people. Under the bill, the TPO and registered manufacturers must encourage the use of existing infrastructure for handling devices as long as it (1) is regularly accessible to at least 85% of the population, (2) is cost effective, and (3) meets the bill's environmentally sound management requirements. The TPO and participating manufacturers also must organize and coordinate public education and outreach programs.

§ 6 — PENALTY FOR NONCOMPLIANCE

Starting July 1, 2010, a manufacturer that does not comply with the conditions and terms of an approved plan must pay to the TPO, or the independent plan, (1) enough money to cover the costs of collecting, transporting, and recycling the unmet portion of its obligation, and (2) a penalty. The payment is determined by multiplying the weight, in pounds, of the unmet portion of the obligation by up to 50 cents per pound. The penalty is the cost of collecting, transporting, and recycling 10% of the manufacturer's total obligation.

Under the bill, manufacturers that collect, transport, and recycle devices may sell credits to another such manufacturer. The bill does not specify how the credit trading program will operate.

§§ 14, 16 — PERFORMANCE REQUIREMENTS AND ENFORCEMENT

DEP must establish performance requirements for collectors, transporters, and recyclers to be eligible to receive DEP funds. All such entities must comply with the U.S. Environmental Protection Agency's Plug-In to eCycling Guidelines for Materials Management and any other federal or state requirements.

Starting October 1, 2010, the bill authorizes the DEP commissioner to issue cease-and-desist orders against anyone violating the bill, and, following a hearing, to suspend or revoke a registration for cause. But the commissioner's authority does not apply to the provision requiring the TPO to assess manufacturers for their share of recycling costs (§

11), leaving enforcement of that provision unclear.

The bill authorizes (1) the attorney general to file a civil action in any judicial district affected by a violation, and (2) courts to grant restraining orders and temporary and permanent injunctive relief needed to secure compliance. Any money paid to the courts must be used to offset enforcement expenses, and any amount in excess of these expenses must be deposited with DEP.

§ 10 — TPO MEMBERSHIP

Fourteen of the 15 TPO members must represent manufacturers taking part in the recycling program. The fifteenth member is the DEP commissioner, or her designee, who serves ex-officio, with the same powers and privileges as other board members.

The governor appoints eight directors; the Senate president pro tempore and House speaker appoint two directors each; and the Senate and House minority leaders one director each.

Three of the governor's eight appointees must represent TV manufacturers, and three must represent computer manufacturers. Of the remaining legislative and gubernatorial appointees, one must represent a manufacturer with fewer than 75 employees, one must represent a manufacturer with between 75 and 300 employees, and one must represent a manufacturer with 300 or more employees.

Appointments to the TPO must be made by December 1, 2008. Members serve at the pleasure of the appointing authority, but no longer than the appointing authority's term of office, and may be reappointed. The appointing authority must fill any vacancy for an appointee's unexpired term. The governor appoints the chairperson; board members must annually choose one of their number as secretary, and may elect other officers. Members are not compensated, but are reimbursed for necessary expenses incurred in performing their duties.

§ 9 — RECYCLING PLAN REPORTS AND AUDITS

By October 1, 2010, and every three years after, DEP must prepare an electronics recycling plan that sets statewide per-capita collection and recycling goals and identifies any actions needed to achieve them. It must post the plan on its website and submit it to the Environment Committee. Also by October 1, 2010 and annually afterwards, DEP must gather information from registered manufacturers and prepare a report on the status of the recycling program, which it must also submit to the Environment Committee. The report must include enough data to enable DEP to analyze the program's effectiveness. It also must include information on any future federal electronic waste recycling law that meets or exceeds the bill's provisions. (There is currently no federal electronic waste recycling law.)

An independent certified public accountant must fully audit the recycling program and its regulatory framework at the end of each calendar year and submit the audit report to the legislature.

§ 15 — DISPOSAL BAN

Starting January 1, 2011, the bill prohibits anyone, including individuals, firms, and government agencies, from discarding a device or its component or subassembly in any solid waste disposal facility.

BACKGROUND

Quasi-Public Agencies

Quasi-public agencies are the Connecticut Development Authority, Connecticut Innovations, Inc. , Connecticut Health and Educational Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Housing Finance Authority, Connecticut Housing Authority, Connecticut Resources Recovery Authority, Connecticut Port Authority, Capital City Economic Development Authority, and Connecticut Lottery Corporation (CGS § 1-120).

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute Change of Reference
Yea 26 Nay 4 (03/21/2007)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 41 Nay 12 (04/17/2007)