

House Research Act Summary

CHAPTER: 48

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TOPIC: Electronic waste recycling

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Overview

Chapter 48 establishes a statewide program to collect and recycle used computers and TV monitors from households. The bill requires each manufacturer selling those products in Minnesota to collect and recycle an amount proportional to the weight of the products the company sold in the state during the previous year. (The requirement is set at 60 percent of the weight during the first program year, increasing to 80 percent thereafter.) To meet this target, manufacturers can collect a much broader array of products ("covered electronic devices"), including computer CPUs, printers and keyboards; fax machines; and DVD players.

Manufacturers must pay a \$5,000 base fee during the first program year (reduced to \$2,500 annually thereafter), plus a variable amount as follows: manufacturers who recycle less than 50 percent of their target pay 50 cents for each pound under the target; those reaching 90 percent of their recycling target pay 30 cents per pound. Manufacturers who surpass their target earn credits that can be used in future years or sold to other manufacturers.

After the administrative costs of the program are covered, revenues raised from manufacturers' fees are to be distributed by the Pollution Control Agency through contracts with counties and private haulers outside the 11-county metropolitan area. Any excess revenues remaining are to be refunded to manufacturers.

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To reflect the lower population densities and longer travel distances in Greater Minnesota, recycled electronic devices collected in those counties are counted at 1.5 times their actual weight.

1 [115A.1310] Definitions.

Subd. 4. Collector. "Collector" means a public or private entity that receives covered electronic devices from households and arranges for the delivery of the devices to a recycler.

Subd. 7. Covered electronic device. "Covered electronic device" means computers, peripherals, facsimile machines, scanners, DVD players, video cassette recorders, and video display devices sold to households.

Subd. 14. Recycler. "Recycler" means a public or private individual or entity who accepts covered electronic devices from households and collectors for the purpose of recycling. A manufacturer who takes products for refurbishment or repair is not a recycler.

Subd. 15. Recycling. "Recycling" means the process of collecting and preparing video display devices or covered electronic devices for use in manufacturing processes or for recovery of useable materials followed by delivery of such materials for use. Recycling does not include the destruction by incineration or other process or land disposal of recyclable materials nor reuse, repair, or any other process through which video display devices or covered electronic devices are returned to use for households in their original form.

Subd. 20. Video display device. "Video display device" means a computer monitor or television with a diagonal screen size exceeding 9 inches, excluding touch-screen monitors, and devices that are part of other specified equipment.

2 [115A.1312] Registration program.

Subd. 1. Requirements for sale. Prohibits a manufacturer from selling a new video display device to a household or delivering it to a retailer for sale to a household after September 1, 2007, unless the device is labeled with the manufacturer's brand and the manufacturer has registered with the agency, as specified in subdivision 2.

Subd. 2. Manufacturer's registration. Requires a manufacturer selling video display devices to households in Minnesota to register with the Pollution Control Agency (agency) by September 1, 2007. The registration must include a list of manufacturer's brands offered for sale in the state, certification of compliance with the provisions of this chapter, and contact information for a person responsible for ensuring

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compliance.

Beginning in 2008, a registration must also contain a statement from a manufacturer disclosing whether any video display device offered for sale in Minnesota exceeds the maximum concentration values for certain hazardous substances (lead, mercury, cadmium, hexavalent chromium, and others) established under the RoHS Directive of the European Parliament and Council, or whether an exemption from those standards has been granted to the manufacturer by the European Commission.

The agency must list all registered manufacturers on its Web site.

Subd. 3. Collector's registration. Requires a collector of covered electronic devices to register annually with the agency, beginning September 1, 2007, certifying compliance with the provisions of this chapter.

Subd. 4. Recycler's registration. Requires a recycler of video display devices to register annually with the agency, beginning September 1, 2007, listing all recycling facilities under its direct control that will receive video display devices, and certifying compliance with the provisions of this chapter.

3 [115A.1314] Manufacturer's registration fee; creation of account.

Subd. 1. Registration fee. Requires registered manufacturers to pay the commissioner of revenue an annual registration fee of \$5,000 during the first year the manufacturer offers video display devices for sale in Minnesota. In each succeeding year, the registration fee is equal to a base fee of \$2,500 plus a variable amount calculated according to the formula

$((A \times B) - (C + D)) \times E$, where

A = pounds of video display devices sold by a manufacturer to households during the previous year;

B = the proportion of sales of video display devices required to be recycled, set at 0.6 for the first program year, and 0.8 thereafter;

C = pounds of covered electronic devices recycled by a manufacturer from households during the previous year;

D = the number of recycling credits a manufacturer elects to use to calculate the variable recycling fee; and

E = the estimated per pound cost of recycling, initially set at 50 cents per pound for manufacturers who recycle less than 50 percent of their target; 40 cents for those who recycle at least 50 percent but less than 90 percent of their target; and 30 cents for manufacturers who recycle at least 90 percent but less than 100 percent of their target.

A manufacturer earns recycling credits when the weight of covered electronic devices it recycles exceeds 60 percent of the weight of its sales of video devices in the first program year, and 80 percent of the weight thereafter. Credits may be sold to other manufacturers or added to the manufacturer's actual recycled amounts in subsequent

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years.

The value "C" in the formula above is calculated at 1.5 times the actual weight of covered electronic devices collected from 68 counties that are not part of or adjacent to the Twin Cities metro area.

Subd. 2. Creation of account; appropriations. Manufacturers' registration fees are deposited in an electronic waste account established in the environmental fund. Until June 30, 2009, money is appropriated annually from the account to the Pollution Control Agency to administer this legislation, including awarding competitive grants to counties and private entities outside the 11-county metro area to implement the bill, with preference given to those helping manufacturers reach their recycling obligations. Any remaining revenues deemed by the commissioner to exceed program costs are to be refunded to manufacturers on a pro rata basis.

4 [115A.1316] Reporting requirements.

Subd. 1. Manufacturer's reporting requirements. By September 1, beginning in 2008, each manufacturer must report to the department the total weight of video display devices sold to Minnesota households during the prior year. This can be done in aggregate, by specific model, or by estimation using national sales data.

Manufacturers must also report the weight of covered electronic devices collected from households and recycled during the prior year; the number of recycling credits purchased, sold, or used to calculate its variable recycling fee; and the number of credits it retains.

Subd. 2. Recycler's reporting requirements. By August 1, beginning in 2008, each recycler must report to agency and department the weight of covered electronic devices collected from households and recycled during the prior year, and must certify compliance with the provisions of section 115A.1318, subdivision 2.

Subd. 3. Collector's reporting requirements. By August 1, beginning in 2008, each collector must report separately to the agency the weight of covered electronic devices collected from households in the 68 counties outside the metro area and the 19 counties within or adjacent to it, as well as a list of recyclers to whom covered electronic devices were delivered.

5 [115A.1318] Responsibilities.

Subd. 1. Manufacturer's responsibilities. A manufacturer must annually recycle or arrange for the collection and recycling of covered electronic devices equal to the weight of video display devices sold by the manufacturer to Minnesota households during the previous year, multiplied by the proportion of sales required to be recycled, as established by the agency (set at 0.6 in the first program year, and at 0.8 thereafter).

A manufacturer must conduct and document due diligence assessments of collectors and recyclers it contracts with to insure that all recyclers comply with subdivision 2.

Subd. 2. Recycler's responsibilities. A recycler must certify that recycling facilities,

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including all downstream recycling operations:

- comply with all applicable health, environmental, safety and financial responsibility regulations, and possess all required licenses;
- use no prison labor; and
- have liability insurance of at least \$1 million for environmental releases and accidents.

Subd. 3. Retailer's responsibilities. By July 1, beginning in 2008, a retailer must report to a manufacturer the number of video display devices, by model, labeled with the manufacturer's brand and sold to households in the prior year.

6 [115A.1320] Agency and department duties.

Subd. 1. Duties of the agency. Requires the agency to administer and enforce this legislation; maintain registrations and certifications; review the value of variables in the manufacturer's annual registration fee formula and recommend changes to the legislature; calculate estimated sales of video display devices to Minnesota households based on national sales data; manage the electronic waste account; report to the governor and legislature annually on the implementation of this legislation; and place contact information for each manufacturer on the agency's Web site.

Subd. 2. Duties of the department. Requires the department to collect data from each manufacturer on sales of video display devices and the weight of covered electronic devices recycled in order to review each manufacturer's annual registration fee, and to enforce the fee provision. The department may disclose nonpublic data to the agency only when necessary to administer the program, and any data disclosed retains its classification as nonpublic.

7 [115A.1322] Other recycling programs. Prohibits public agencies from requiring households to use public facilities to recycle covered electronic devices, provided that other lawful recycling programs are available, and collectors and recyclers are registered. Allows recycling programs administered by manufacturers to operate.

8 [115A.1323] Anticompetitive conduct. Authorizes a manufacturer or an organization of manufacturers to engage in anticompetitive conduct to the extent necessary to fulfill the collection and recycling requirements of this chapter, and grants immunity to those entities from state laws regulating anticompetitive behavior.

9 [115A.1324] Requirements for purchases by state agencies. Directs the Department of Administration to ensure that video display devices purchased by the state are certified by the vendor to be in compliance with, or not subject to, this legislation. If a contractor is found to be in violation, the contract may be voided, and the contractor subject to suspension and disbarment, if the commissioner determines that the benefits of doing so exceed the potential adverse impacts on the state.

10 [115A.1326] Regulation of video display devices. Specifies that if the federal Environmental Protection Agency adopts regulations regarding the recycling of video display devices, the federal regulations automatically become effective in Minnesota on the

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same date and supersede any state regulations in that area.

- 11** [115A.1328] **Multistate implementation.** Authorizes the agency and department to help establish and implement a regional organization or compact to assist in recycling video display devices.
- 12** [115A.1330] **Limitations.** Specifies that this legislation expires if federal laws are implemented that establish a collection and recycling program for all video display devices discarded by households in the United States.
- 13** **Direct appropriation.** Requires the PCA to report on revenues received and expenditures made in FY 2008-09 and to request the governor to recommend a direct appropriation to fund the program.
- 14** **Effective date.** Sections 1 to 13 are effective the day following final enactment.