

FIRST REGULAR SESSION

SENATE BILL NO. 363

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHAPPELLE-NADAL.

Read 1st time February 20, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1332S.01I

AN ACT

To repeal sections 260.1050, 260.1053, 260.1059, 260.1062, 260.1065, 260.1068, 260.1071, 260.1074, 260.1077, 260.1080, 260.1083, 260.1089, 260.1092, and 260.1101, RSMo, and to enact in lieu thereof twenty-one new sections relating to the residential electronic products recycling and reuse act, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 260.1050, 260.1053, 260.1059, 260.1062, 260.1065, 260.1068, 260.1071, 260.1074, 260.1077, 260.1080, 260.1083, 260.1089, 260.1092, and 260.1101, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 260.1200, 260.1202, 260.1204, 260.1206, 260.1208, 260.1210, 260.1212, 260.1214, 260.1216, 260.1218, 260.1220, 260.1222, 260.1224, 260.1226, 260.1228, 260.1230, 260.1232, 260.1234, 260.1236, 260.1238, and 260.1240, to read as follows:

260.1200. Sections 260.1200 to 260.1240 shall be known and may be cited as the "Residential Electronic Products Recycling and Reuse Act".

260.1202. As used in sections 260.1200 to 260.1240, the following terms shall mean:

(1) "Cathode-ray tube", a vacuum tube or picture tube used to convert an electronic signal into a visual image, such as a television or computer monitor;

(2) "Collector", a person who receives covered electronic devices or eligible electronic devices directly from a residence for recycling or processing for reuse. "Collector" includes, but is not limited to,

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

9 manufacturers, dismantlers/demanufacturers, and refurbishers who
10 receive CEDs or EEDs directly from the public;

11 (3) "Computer" or "personal computer" or "PC", a desktop
12 computer further defined in subdivision (7) of this section or notebook
13 computer further defined in subdivision (13) of this section and used
14 only in a residence, but does not mean an automated typewriter,
15 electronic printer, mobile telephone, portable hand-held calculator,
16 portable digital assistant (PDA), MP3 player, or other similar
17 device. "Computer" does not include computer peripherals, commonly
18 known as cables, mouse, or keyboard;

19 (4) "Computer monitor", an electronic device that is a
20 cathode-ray tube or flat panel display primarily intended to display
21 information from a computer and is used only in a residence;

22 (5) "Covered electronic device" or "CED", any computer, computer
23 monitor, television, or printer that is taken out of service from a
24 residence in this state regardless of purchase location. "Covered
25 electronic device" does not include any of the following:

26 (a) An electronic device that is a part of a motor vehicle or any
27 component part of a motor vehicle assembled by or for a vehicle
28 manufacturer or franchised dealer, including replacement parts for use
29 in a motor vehicle;

30 (b) An electronic device that is functionally or physically part of
31 a larger piece of equipment or that is taken out of service from an
32 industrial, commercial (including retail), library checkout, traffic
33 control, kiosk, security (other than household security), governmental,
34 agricultural, or medical setting, including but not limited to diagnostic,
35 monitoring, or control equipment; or

36 (c) An electronic device that is contained within a clothes
37 washer, clothes dryer, refrigerator, refrigerator and freezer, microwave
38 oven, conventional oven or range, dishwasher, room air conditioner,
39 dehumidifier, water pump, sump pump, or air purifier.

40 To the extent allowed under federal and state laws and regulations, a
41 CED that is being collected, recycled, or processed for reuse is not
42 considered to be hazardous waste, household waste, solid waste, or
43 special waste;

44 (6) "Department", the Missouri department of natural resources;

45 (7) "Desktop computer", an electronic, magnetic, optical,

46 electrochemical, or other high-speed data processing device performing
47 logical, arithmetic, or storage functions for general purpose needs that
48 are met through interaction with a number of software programs
49 contained therein, and that is not designed to exclusively perform a
50 specific type of logical, arithmetic, or storage function or other limited
51 or specialized application. A desktop computer is not designed for
52 portability and generally utilizes an external monitor, keyboard, and
53 mouse with an external or internal power supply for a power
54 source. "Desktop computer" does not include an automated typewriter
55 or typesetter;

56 (8) "Developmentally disabled", having a severe disability, that
57 can be expected to result in death or that has lasted, or is expected to
58 last, at least twelve months and that prevents working at a substantial
59 gainful activity level;

60 (9) "Dismantling", the demanufacturing and shredding of a CED;

61 (10) "Eligible electronic device" or "EED", any of the following
62 electronic products taken out of service from a residence in this state
63 regardless of purchase location: mobile telephone; computer cable,
64 mouse, or keyboard; stand-alone facsimile machine; MP3 player;
65 portable digital assistant (PDA); video game console, video cassette
66 recorder/player, digital video disk player, or similar video device; zip
67 drive; or scanner. To the extent allowed under federal and state laws
68 and regulations, an EED that is being collected, recycled, or processed
69 for reuse is not considered to be hazardous waste, household waste,
70 solid waste, or special waste;

71 (11) "Low-income children and families", those children and
72 families that are subject to the most recent version of the United States
73 Department of Health and Human Services Federal Poverty Guidelines;

74 (12) "Manufacturer", a person, or a successor in interest to a
75 person, under whose brand or label a CED is or was sold at retail. For
76 CEDs sold at retail under a brand or label that is licensed from a
77 person who is a mere brand owner and who does not sell or produce
78 the CED, the person who produced the CED or his or her successor in
79 interest is the manufacturer. For CEDs sold that were at retail under
80 the brand or label of both the retail seller and the person that
81 produced the CED, the person that produced the CED, or his or her
82 successor in interest, is the manufacturer. A retail seller of CEDs may

83 elect to be the manufacturer of one or more CEDs if the retail seller
84 provides written notice to the department that it is accepting
85 responsibility as the manufacturer of the CED under sections 260.1200
86 to 260.1240 and identifies the CEDs for which it is electing to be the
87 manufacturer;

88 (13) "Notebook computer" or "laptop computer", an electronic,
89 magnetic, optical, electrochemical, or other high-speed data processing
90 device performing logical, arithmetic, or storage functions for general
91 purpose needs that are met through interaction with a number of
92 software programs contained therein, and that is not designed to
93 exclusively perform a specific type of logical, arithmetic, or storage
94 function or other limited or specialized application. Human interface
95 with a notebook or laptop computer is achieved through a keyboard,
96 video display greater than four inches in size, and mouse or other
97 pointing device, all of which are contained within the construction of
98 the unit that comprises the notebook or laptop computer; supplemental
99 stand-alone interface devices typically can also be attached to the
100 notebook or laptop computer. Notebook or laptop computers can use
101 external, internal, or batteries for a power source. A notebook or
102 laptop computer does not include a portable hand-held calculator, or
103 a portable digital assistant or similar specialized device;

104 (14) "Orphan CEDs", those CEDs that are returned for recycling
105 or processing for reuse, whose manufacturer cannot be identified, or
106 whose manufacturer is no longer conducting business and has no
107 successor in interest;

108 (15) "Person", any individual, partnership, copartnership, firm,
109 company, limited liability company, corporation, association, joint
110 stock company, trust, estate, political subdivision, state agency, or any
111 other legal entity, or a legal representative, agent, or assign of that
112 entity;

113 (16) "Printer", desktop printers, multifunction printer copiers,
114 and printer/fax combinations taken out of service from a residence that
115 are designed to reside on a work surface, and include various print
116 technologies, including without limitation laser and LED
117 (electrographic), ink jet, dot matrix, thermal, and digital sublimation,
118 and multi-function or all-in-one devices that perform different tasks,
119 including without limitation copying, scanning, faxing, and

120 printing. "Printers" do not include floor-standing printers, printers
121 with optional floor stand, point of sale (POS) receipt printers,
122 household printers such as a calculator with printing capabilities or
123 label makers, or nonstand-alone printers that are embedded into
124 products that are not CEDs;

125 (17) "Processing for reuse", any method, technique, or process by
126 which CEDs or EEDs that would otherwise be disposed of or discarded
127 are instead separated, processed, and returned to their original
128 intended purposes or to other useful purposes as electronic devices;

129 (18) "Program year", a calendar year. The first program year is
130 2014;

131 (19) "Recycling", any method, technique, or process by which
132 CEDs or EEDs that would otherwise be disposed of or discarded are
133 instead collected, separated, or processed and are returned to the
134 economic mainstream in the form of raw materials or
135 products. "Recycling" includes the collection, transportation,
136 dismantling, and shredding of the CEDs or EEDs;

137 (20) "Refurbisher", any person who processes CEDs or EEDs for
138 reuse, but does not include telecommunications carriers,
139 telecommunications manufacturers, or commercial mobile service
140 providers with an existing recycling program;

141 (21) "Residence", a dwelling place or home in which one or more
142 individuals live;

143 (22) "Retailer", a person who sells, rents, or leases, through sales
144 outlets, catalogues, or the internet, computers, computer monitors, or
145 televisions at retail to individuals in this state. For purposes of
146 sections 260.1200 to 260.1240, sales to individuals at retail are
147 considered to be sales for residential use. "Retailer" includes, but is not
148 limited to, manufacturers who sell computers, computer monitors, or
149 televisions at retail directly to individuals in this state;

150 (23) "Sale", any retail transfer of title for consideration of title
151 including, but not limited to, transactions conducted through sales
152 outlets, catalogs, or the internet or any other similar electronic means
153 but does not mean financing or leasing;

154 (24) "Solid waste management district" or "SWMD", as set forth in
155 section 260.305;

156 (25) "Television", an electronic device:

157 (a) Containing a cathode-ray tube or flat panel screen the size of
158 which is greater than four inches when measured diagonally;

159 (b) That is intended to receive video programming via broadcast,
160 cable, or satellite transmission or to receive video from surveillance or
161 other similar cameras; and

162 (c) That is used only in a residence.

260.1204. 1. For program year 2014, the statewide recycling or
2 reuse goal for all CEDs is the product of: the latest population estimate
3 for the state, as published on the United States Census Bureau's
4 website on January 1, 2010, multiplied by 2.5 pounds per capita.

5 2. For program year 2015, the statewide recycling or reuse goal
6 for all CEDs is the product of: the 2014 base weight multiplied by the
7 2014 goal attainment percentage.

8 3. (1) For the purposes of subsection 2 of this section the 2014
9 base weight means the greater of:

10 (a) Twice the total weight of all CEDs that were recycled or
11 processed for reuse between January 1, 2014, and June 30, 2014, as
12 reported to the department under subsection 9 or 10 of section
13 260.1216; or

14 (b) Twice the total weight of all CEDs that were recycled or
15 processed for reuse between January 1, 2014, and June 30, 2014, as
16 reported to the department under subsection 3 of section 260.1222.

17 (2) For purposes of subsection 2 of this section, the 2014 goal
18 attainment percentage means:

19 (a) Ninety percent if the 2014 base weight is less than ninety
20 percent of the statewide recycling or reuse goal for program year 2014;

21 (b) Ninety-five percent if the 2014 base weight is ninety percent
22 or greater, but does not exceed ninety-five percent of the statewide
23 recycling or reuse goal for program year 2014;

24 (c) One hundred percent if the 2014 base weight is ninety-five
25 percent or greater, but does not exceed one hundred five percent of the
26 statewide recycling or reuse goal for program year 2014;

27 (d) One hundred five percent if the 2014 base weight is one
28 hundred five percent or greater, but does not exceed one hundred ten
29 percent of the statewide recycling or reuse goal for program year 2014;
30 and

31 (e) One hundred ten percent if the 2014 base weight is one

32 hundred ten percent or greater of the statewide recycling or reuse goal
33 for program year 2014.

34 4. (1) For program years 2016 and thereafter, the statewide
35 recycling or reuse goal for all CEDs is the product of: the base weight
36 multiplied by the goal attainment percentage.

37 (2) For purposes of this subsection:

38 (a) The "base weight" means the greater of:

39 a. The total weight of all CEDs recycled or processed for reuse
40 during the previous program year as reported to the department under
41 subsection 11 or 12 of section 260.1216; or

42 b. The total weight of all CEDs recycled or processed for reuse
43 during the previous program year as reported to the department under
44 subsection 4 of section 260.1222;

45 (b) The "goal attainment percentage" means:

46 a. Ninety percent if the base weight is less than ninety percent
47 of the statewide recycling or reuse goal for the previous program year;

48 b. Ninety-five percent if the base weight is ninety percent or
49 greater, but does not exceed ninety-five percent of the statewide
50 recycling or reuse goal for the previous program year;

51 c. One hundred percent if the base weight is ninety-five percent
52 or greater, but does not exceed one hundred five percent of the
53 statewide recycling or reuse goal for the previous program year;

54 d. One hundred five percent if the base weight is one hundred
55 five percent or greater, but does not exceed one hundred ten percent
56 of the statewide recycling or reuse goal for the previous program year;
57 and

58 e. One hundred ten percent if the base weight is one hundred ten
59 percent or greater of the statewide recycling or reuse goal for the
60 previous program year.

260.1206. 1. For program year 2014, the statewide recycling or
2 reuse goal for television manufacturers is fifty-three percent of the
3 statewide goal for all CEDs under subsection 1 of section 260.1204.

4 2. For program year 2015, the statewide recycling or reuse goal
5 for television manufacturers is the product of: an amount equal to the
6 total weight of televisions that were recycled or processed for reuse
7 between January 1, 2014, and June 30, 2014, as reported under
8 subsection 9 of section 260.1216, divided by the total weight of all CEDs

9 that were recycled or processed for reuse between January 1, 2014, and
10 June 30, 2014, as reported under subsection 9 of section 260.1216,
11 multiplied by the statewide recycling or reuse goal for all CEDs under
12 subsection 2 of section 260.1204.

13 3. For program years 2016 and thereafter, the statewide
14 recycling or reuse goal for television manufacturers is the product of:
15 an amount equal to the total weight of televisions recycled or processed
16 for reuse during the previous program year, as reported under
17 subsection 4 of section 260.1214, divided by the total weight of all CEDs
18 recycled or processed for reuse, as reported under subsection 4 of
19 section 260.1214, multiplied by the statewide recycling or reuse goal for
20 all CEDs under subsection 3 of section 260.1204.

260.1208. 1. For program year 2014, the statewide recycling or
2 reuse goal for computer, computer monitor, and printer manufacturers
3 is forty-seven percent of the statewide goal for all CEDs under
4 subsection 1 of section 260.1204.

5 2. For program year 2015, the statewide recycling or reuse goal
6 for computer, computer monitor, and printer manufacturers is the
7 product of: an amount equal to the total weight of computers,
8 computer monitors, and printers that were recycled or processed for
9 reuse between January 1, 2014, and June 30, 2014, as reported under
10 subsection 10 of section 260.1216, divided by the total weight of all
11 CEDs that were recycled or processed for reuse between January 1,
12 2014, and June 30, 2014, as reported under subsection 10 of section
13 260.1216, multiplied by statewide recycling or reuse goal for all CEDs
14 under subsection 2 of section 260.1204.

15 3. For program years 2016 and thereafter, the statewide
16 recycling or reuse goal for computer, computer monitor, and printer
17 manufacturers is the product of: an amount equal to the total weight
18 of computers, computer monitors, and printers recycled or processed
19 for reuse during the previous program year, as reported under
20 subsection 4 of section 260.1214, divided by the total weight of all CEDs
21 recycled or processed for reuse, as reported under subsection 4 of
22 section 260.1214, multiplied by statewide recycling or reuse goal for all
23 CEDs under subsection 3 of section 260.1204.

260.1210. 1. The recycling or reuse goal for each television
2 manufacturer is based upon that manufacturer's market share. The

3 market share for each television manufacturer is the following:

4 (1) For program year 2014, the quotient of: the total weight of
5 the manufacturer's televisions that were sold at retail in this state to
6 individuals between October 1, 2012, and March 31, 2013, as reported
7 under subsection 8 of section 260.1216, divided by the total weight of all
8 televisions that were sold at retail in this state to individuals between
9 October 1, 2012, and March 31, 2013, as reported under subsection 8 of
10 section 260.1216;

11 (2) For program year 2015, the quotient of: the total weight of
12 the manufacturer's televisions that were sold at retail in this state to
13 individuals between January 1, 2014, and June 30, 2014, as reported
14 under subsection 9 of section 260.1216, divided by the total weight of all
15 televisions that were sold at retail in this state to individuals between
16 January 1, 2014, and June 30, 2014, as reported under subsection 9 of
17 section 260.1216;

18 (3) For program years 2016 and thereafter, the quotient of: the
19 total weight of the manufacturer's televisions that were sold at retail
20 in this state to individuals during the previous program year, as
21 reported under subsection 11 of section 260.1216, divided by the total
22 weight of all televisions sold at retail in this state to individuals during
23 the previous program year, as reported under subsection 11 of section
24 260.1216.

25 2. The recycling or reuse goals for each manufacturer of
26 computers, computer monitors, or printers is based upon that
27 manufacturer's return share. The return share for each manufacturer
28 of computers or computer monitors is the following:

29 (1) For program year 2014, the return share for each
30 manufacturer shall be determined using the information the Florida
31 department of environmental protection used to create its October 5,
32 2007, report titled "Quantifying Electronic Product Brand Market Share
33 as a Metric for Apportioning Manufacturer Share of Recycling System
34 Costs" or successor standard of the department as defined and officially
35 recorded by the Florida department of environmental protection or its
36 successor. Using the same information that was used to generate tables
37 6 and 9 of the report, a manufacturer's return share shall be equal to
38 the quotient of: the sum of the number of the manufacturer's
39 computers received for recycling plus the number of the manufacturer's

40 computer monitors received for recycling, plus the number of the
41 manufacturer's printers received for recycling, divided by the sum of
42 the total number of computers received for recycling plus the total
43 number of computer monitors received for recycling, plus the sum of
44 the total number of printers received for recycling;

45 (2) For program year 2015, the quotient of: the total weight of
46 the manufacturer's computers, computer monitors, and printers that
47 were taken out of service from a residence in this state and recycled or
48 processed for reuse between January 1, 2014, and June 30, 2014, as
49 reported under subsection 10 of section 260.1216, divided by the total
50 weight of all computers, computer monitors, and printers that were
51 taken out of service from a residence in this state and recycled or
52 processed for reuse between January 1, 2014, and June 30, 2014, as
53 reported under subsection 10 of section 260.1216;

54 (3) For program years 2016 and thereafter, the quotient of: the
55 total weight of the manufacturer's computers, computer monitors, and
56 printers that were taken out of service from a residence in this state
57 and recycled or processed for reuse during the previous program year,
58 as reported under subsection 12 of section 260.1216, divided by the total
59 weight of all computers, computer monitors, and printers that were
60 taken out of service from a residence in this state and recycled or
61 processed for reuse during the previous program year, as reported
62 under subsection 12 of section 260.1216.

260.1212. 1. The individual recycling and reuse goal for each
2 television manufacturer is the product of: the statewide goal for the
3 recycling and reuse for all television manufacturers under section
4 260.1206, multiplied by that manufacturer's market share under
5 subsection 1 of section 260.1210.

6 2. The individual recycling and reuse goal for each manufacturer
7 of computers, computer monitors, or printers is the product of: the
8 statewide goal for the recycling and reuse for all computer, computer
9 monitor, and printer manufacturers under section 260.1208, multiplied
10 by that manufacturer's return share under subsection 2 of section
11 260.1210.

260.1214. 1. The department has the authority to monitor
2 compliance with sections 260.1200 to 260.1240 and to refer violations of
3 sections 260.1200 to 260.1240 to the attorney general.

4 2. No later than October first of each program year, the
5 department shall post on its website a list of underserved solid waste
6 management districts in the state for the next program year. The list
7 of underserved solid waste management districts for the first program
8 year is set forth in subsection 1 of section 260.1224.

9 3. By September 1, 2013, the department shall implement a solid
10 waste management district and municipal government education
11 campaign to inform those entities about sections 260.1200 to 260.1240
12 and the implications on solid waste collection in their localities.

13 4. By September 1, 2015, for the first program year, and by April
14 first for all subsequent program years, the department shall report to
15 the governor and to the general assembly annually on the previous
16 program year's performance. The report shall be posted on the
17 department's website. The report shall include, but not be limited to,
18 the following:

19 (1) The total overall weight of CEDs, as well as the subtotal
20 weight of computers, the subtotal weight of computer monitors, the
21 subtotal weight of printers, the subtotal weight of televisions, and the
22 total weight of EEDs that were recycled or processed for reuse in the
23 state during the program year, as reported by manufacturers and
24 collectors under sections 260.1216 and 260.1222;

25 (2) A listing of all collection sites as set forth under subsection
26 5 of section 260.1222;

27 (3) A statement of the manufacturers' progress toward achieving
28 the statewide recycling goal set forth in section 260.1204 (calculated
29 from the manufacturer reports under section 260.1216 and the collector
30 reports under section 260.1222) and any identified state actions that
31 may help expand collection opportunities to help manufacturers
32 achieve the statewide recycling goal;

33 (4) A listing of any manufacturers whom the department referred
34 to the attorney general's office for enforcement as a result of a
35 violation of sections 260.1200 to 260.1240;

36 (5) A discussion of the department's education and outreach
37 activities; and

38 (6) A discussion of the penalties, if any, incurred by
39 manufacturers for failure to achieve recycling goals, and a
40 recommendation to the general assembly of any necessary or

41 appropriate changes to the statewide recycling goals, manufacturer's
42 recycling goals, or penalty provisions included in sections 260.1200 to
43 260.1240.

44 5. The department shall post on its website:

45 (1) A list of manufacturers that have paid the current year's
46 registration fee as set forth in subsection 2 of section 260.1216; and

47 (2) A list of registered collectors to whom Missouri residents can
48 bring CEDs and EEDs for recycling or processing for reuse, including
49 links to the collectors' websites and the collectors' phone numbers.

50 6. In program years 2014, 2015, and 2016, and at its discretion
51 thereafter, the department shall convene and host an electronic
52 products recycling conference. The department may host the
53 conferences alone or with other public entities or with organizations
54 associated with electronic products recycling.

55 7. No later than October first of each program year, the
56 department shall post on its website the following information for the
57 next program year:

58 (1) The overall statewide recycling and reuse goal for CEDs, as
59 well as the subgoals for televisions, computers, computer monitors, and
60 printers as set forth in section 260.1204;

61 (2) The market shares of television manufacturers and the return
62 shares of computer, computer monitor, and printer manufacturers, as
63 set forth in section 260.1210; and

64 (3) The individual recycling and reuse goals for each
65 manufacturer, as set forth in section 260.1212.

66 8. By April 1, 2014, and by April first of all subsequent years, the
67 department shall recognize those manufacturers that have met or
68 exceeded their recycling or reuse goals for the previous program
69 year. Such recognition shall be the awarding to all such manufacturers
70 of an electronic industry recycling award, which shall be recognized on
71 the department's website and other media as appropriate.

72 9. By March 1, 2014, and by March first of each subsequent year,
73 the department shall post on its website a list of registered
74 manufacturers that have not met their annual recycling and reuse goal
75 for the previous program year.

76 10. (1) By July 1, 2015, the department shall solicit written
77 comments regarding all aspects of the program codified in sections

78 260.1200 to 260.1240, for the purpose of determining if the program
79 requires any modifications.

80 (2) Issues to be reviewed by the department are, but not limited
81 to, the following:

82 (a) Sufficiency of the annual statewide recycling goals;

83 (b) Fairness of the formulas used to determine individual
84 manufacturer goals;

85 (c) Adequacy of, or the need for, continuation of the credits
86 outlined in subdivisions (1) to (3) of subsection 4 of section 260.1216;

87 (d) Any temporary recisions of solid waste management district
88 landfill bans granted in this state under subsection 5 of section
89 260.1236;

90 (e) Adequacy of, or the need for, the penalties listed in section
91 260.1230, which are scheduled to take effect on January 1, 2014;

92 (f) Adequacy of the collection systems that have been
93 implemented as a result of sections 260.1200 to 260.1240, with a
94 particular focus on promoting the most cost-effective and convenient
95 collection system possible for Missouri residents.

96 (3) By July 1, 2016, the department shall complete its review of
97 the written comments received, as well as its own reports on program
98 years 2014 and 2015. By August 1, 2016, the department shall hold a
99 public hearing to present its findings and solicit additional
100 comments. All additional comments shall be submitted to the
101 department in writing no later than October 1, 2016.

102 (4) The department's final report, which shall be issued no later
103 than February 1, 2017, shall be submitted to the governor and the
104 general assembly and shall include specific recommendations for any
105 necessary or appropriate modifications to the program.

260.1216. 1. Prior to April 1, 2014, for the first program year, and
2 by October first for program year 2015 and thereafter, manufacturers
3 whose computers, computer monitors, printers, or televisions are sold
4 in this state shall register with the department. The registration shall
5 be submitted in the form and manner required by the department. The
6 registration shall include, without limitation, all of the following:

7 (1) A list of all of the manufacturer's brands of computers,
8 computer monitors, printers, or televisions to be offered for sale in the
9 next program year;

10 **(2) For manufacturers of both televisions and computers,**
11 **computer monitors, or printers, an identification of whether, for**
12 **residential use, televisions or computers, computer monitors, and**
13 **printers, represent the larger number of units sold for the**
14 **manufacturer; and**

15 **(3) A statement disclosing whether:**

16 **(a) Any computer, computer monitor, printer, or television sold**
17 **in this state exceeds the maximum concentration values established for**
18 **lead, mercury, cadmium, hexavalent chromium, polybrominated**
19 **biphenyls (PBBs), and polybrominated diphenyl ethers (PBDEEs) under**
20 **the RoHS (restricting the use of certain hazardous substances in**
21 **electrical and electronic equipment) Directive 2002/95/EC of the**
22 **European Parliament and Council or successor standard of the**
23 **department as defined and officially recorded by the European**
24 **Parliament and Council or its successor and, if so, an identification of**
25 **that computer, computer monitor, or television; or**

26 **(b) The manufacturer has received an exemption from one or**
27 **more of those maximum concentration values under the RoHS Directive**
28 **that has been approved and published by the European Commission.**
29 **If, during the program year, a manufacturer's computer, computer**
30 **monitor, printer, or television is sold or offered for sale under a new**
31 **brand that is not listed in the manufacturer's registration, then, within**
32 **thirty days after the first sale or offer for sale under the new brand, the**
33 **manufacturer shall amend its registration to add the new brand.**

34 **2. Prior to September 1, 2013, for the first program year, and by**
35 **the November first preceding program years 2014 and later, all**
36 **manufacturers whose computers, computer monitors, or televisions are**
37 **sold in the state shall submit to the department, at an address**
38 **prescribed by the department, the registration fee for the next program**
39 **year. The registration fee for program year 2014 is ten thousand**
40 **dollars. For program years 2015 and later, the registration fee is**
41 **decreased to five thousand dollars per year.**

42 **3. A manufacturer whose computers, computer monitors,**
43 **printers, or televisions are first sold or offered for sale in this state on**
44 **or after January first of a program year shall register with the**
45 **department in accordance with subsection 1 of this section and submit**
46 **the registration fee required under subsection 2 of this section prior to**

47 the manufacturer's computers, computer monitors, printers, or
48 televisions being sold or offered for sale.

49 4. Each manufacturer shall recycle or process for reuse CEDs
50 and EEDs whose total weight equals or exceeds the manufacturer's
51 individual recycling and reuse goal set forth in section
52 260.1212. Individual consumers shall not be charged an end-of-life fee
53 when bringing their CEDs and EEDs to permanent or temporary
54 collection locations, unless a financial incentive of equal or greater
55 value, such as a coupon, is provided. Collectors may charge a fee for
56 premium services such as curbside collection, home pick-up, or a
57 similar method of collection. When determining whether a
58 manufacturer has met or exceeded its individual recycling and reuse
59 goal set forth in section 260.1212, all of the following adjustments shall
60 be made:

61 (1) The total weight of CEDs processed for reuse by the
62 manufacturer, its dismantler/demanufacturers, or its refurbishers is
63 doubled;

64 (2) The total weight of CEDs is tripled if they are donated for
65 reuse by the manufacturer to a primary or secondary public education
66 institution or to a not-for-profit entity that is established under Section
67 501(c)(3) of the Internal Revenue Code of 1986, as amended, and whose
68 principal mission is to assist low-income children or families or to
69 assist the developmentally disabled in Missouri. This subdivision
70 applies only to CEDs for which the manufacturer has received a written
71 confirmation that the recipient has accepted the donation. Copies of
72 all written confirmations shall be submitted in the annual report
73 required under this section;

74 (3) The total weight of CEDs collected by manufacturers free of
75 charge in underserved solid waste management districts is
76 doubled. This subdivision applies only to CEDs that are documented
77 by collectors as being collected or received free of charge in
78 underserved solid waste management districts. This documentation
79 shall include, without limitation, the date and location of collection or
80 receipt, the weight of the CEDs collected or received, and an
81 acknowledgment by the collector that the CEDs were collected or
82 received free of charge. Copies of the documentation shall be
83 submitted in the annual report required under subsections 8 to 12 of

84 this section.

85 5. Manufacturers of computers, computer monitors, or printers,
86 either individually or collectively, shall hire an independent
87 third-party auditor to perform statistically significant return share
88 samples of CEDs received by dismantlers/demanufacturers and
89 refurbishers for recycling or processing for reuse. Each third-party
90 auditor shall perform a return share sample of CEDs for at least one
91 eight-hour period, once a quarter during the program year at the
92 facility of each registered dismantler/demanufacturer and refurbisher
93 under contract with the manufacturer or group of manufacturers that
94 has hired the auditor. The audit shall contain the following data:

- 95 (1) The number and weight of CEDs, sorted by brand name and
96 product type, including a category for orphan CEDs;
97 (2) The total weight of the sample by product type;
98 (3) The date, location, and time of the sampling;
99 (4) The name or names of the manufacturer for whom the
100 dismantler/demanufacturer is performing activities under sections
101 260.1200 to 260.1240; and
102 (5) A certification by the third-party auditor that the sampling
103 is statistically significant and, if not, an explanation as to what
104 occurred to render the sampling insignificant. The manufacturer shall
105 notify the department thirty days prior to the third-party auditor's
106 return share sampling by providing the department with the time and
107 date on which the third-party auditor will perform the return share
108 sample. The department may, at its discretion, be present at any
109 sampling event and may audit the methodology and the results of the
110 third-party auditor. No less than thirty days after the close of each
111 calendar quarter, the manufacturer shall submit to the department the
112 results of the third-party samplings conducted during the quarter. The
113 results shall be submitted in the form and manner required by the
114 department.

115 6. Manufacturers shall ensure that only demantlers/demanufacturers
116 and refurbishers that have registered with the department are used to meet
117 the individual recycling and reuse goals set forth in sections 260.1200 to
118 260.1240.

119 7. Manufacturers shall ensure that the dismantlers/demanufacturers
120 and refurbishers used to meet the individual recycling and reuse goals set

121 forth in sections 260.1200 to 260.1240 shall, at a minimum, comply with
122 the standards set forth under subsection 4 of section 260.1220.

123 8. By September 15, 2013, television manufacturers shall submit
124 to the department, in the form and manner required by the department,
125 a report that contains the total weight of televisions sold under each of
126 the manufacturer's brands to individuals at retail in this state, as set
127 forth in the reports to manufacturers by retailers under subsection 3
128 of section 260.1218.

129 9. No later than September 1, 2014, television manufacturers
130 shall submit to the department, in the form and manner required by the
131 department, a report for the period January 1, 2014, to June 30, 2014,
132 that contains the following information:

133 (1) The total weight of televisions sold under each of the
134 manufacturer's brands to individuals at retail in this state, as set forth
135 in the reports submitted under subsection 4 of section 260.1218; and

136 (2) The total weight of computers, the total weight of computer
137 monitors, the total weight of printers, the total weight of televisions,
138 and the total weight of EEDs recycled or processed for reuse.

139 10. By August 15, 2014, computer, computer monitor, and printer
140 manufacturers shall submit to the department, on forms and in a
141 format prescribed by the department, a report for the period January
142 1, 2014, to June 30, 2014, that contains the total weight of computers,
143 the total weight of computer monitors, the total weight of printers, the
144 total weight of televisions, and the total weight of EEDs, recycled or
145 processed for reuse.

146 11. No later than April first of program years 2015 and
147 thereafter, television manufacturers shall submit to the department, in
148 the form and manner required by the department, a report that
149 contains the following information for the previous program year:

150 (1) The total weight of televisions sold under each of the
151 manufacturer's brands to individuals at retail in this state, as set forth
152 in the reports submitted under subsection 5 of section 260.1218;

153 (2) The total weight of computers, the total weight of computer
154 monitors, the total weight of printers, the total weight of televisions,
155 and the total weight of EEDs recycled or processed for reuse;

156 (3) The identification of all weights that are adjusted under
157 subsection 4 this section. For all weights adjusted under subdivision

158 **(2) of subsection 4 of this section, the manufacturer shall include copies**
159 **of the written confirmation required under such subsection;**

160 **(4) A list of each dismantler/demanufacturer, refurbisher, and**
161 **collector used by the manufacturer to fulfill the manufacturer's**
162 **individual recycling and reuse goal set forth in section 260.1212;**

163 **(5) A summary of the manufacturer's consumer education**
164 **program required under subsection 13 of this section.**

165 **12. No later than April first of program years 2015 and**
166 **thereafter, computer, computer monitor, and printer manufacturers**
167 **shall submit to the department, on forms and in a format prescribed by**
168 **the department, a report that contains the following information for the**
169 **previous program year:**

170 **(1) The total weight of computers, the total weight of computer**
171 **monitors, the total weight of printers, the total weight of televisions,**
172 **and the total weight of EEDs recycled or processed for reuse;**

173 **(2) The identification of all weights that are adjusted under**
174 **subsection 4 of this section. For all weights adjusted under subdivision**
175 **(2) of subsection 4 of this section, the manufacturer shall include copies**
176 **of the written confirmation required under such subsection;**

177 **(3) A list of each dismantler/demanufacturer, refurbisher, and**
178 **collector used by the manufacturer to fulfill the manufacturer's**
179 **individual recycling and reuse goal set forth in subsection 3 of section**
180 **260.1204; and**

181 **(4) A summary of the manufacturer's consumer education**
182 **program required under subsection 13 of this section.**

183 **13. Manufacturers shall develop and maintain a consumer**
184 **education program that complements and corresponds to the primary**
185 **retailer-driven campaign required under section 260.1218. The**
186 **education program shall promote the recycling of electronic products**
187 **and proper end-of-life management of the products by consumers.**

188 **14. Beginning January 1, 2014, no manufacturer shall sell a**
189 **computer, computer monitor, printer, or television in this state unless**
190 **the manufacturer is registered with the state as required under**
191 **sections 260.1200 to 260.1240, has paid the required registration fee,**
192 **and is otherwise in compliance with the provisions of sections 260.1200**
193 **to 260.1240.**

194 **15. Beginning January 1, 2014, no manufacturer shall sell a**

195 computer, computer monitor, printer, or television in this state unless
196 the manufacturer's brand name is permanently affixed to, and is
197 readily visible on, the computer, computer monitor, printer, or
198 television.

260.1218. 1. Retailers shall be a primary source of information
2 about end-of-life options to residential consumers of computers,
3 computer monitors, printers, and televisions. At the time of sale, the
4 retailer shall provide each residential consumer with information from
5 the department's website that provides information detailing where
6 and how a consumer can recycle a CED or return a CED for reuse.

7 2. Beginning January 1, 2014, no retailer shall sell or offer for
8 sale any computer, computer monitor, printer, or television in or for
9 delivery into this state unless:

10 (1) The computer, computer monitor, printer, or television is
11 labeled with a brand and the label is permanently affixed and readily
12 visible; and

13 (2) The manufacturer is registered with the department and has
14 paid the required registration fee as required under section
15 260.1214. This subsection does not apply to any computer, computer
16 monitor, printer, or television that was purchased prior to January 1,
17 2014.

18 3. By September 1, 2013, retailers shall report to each television
19 manufacturer, by model, the number of televisions sold at retail to
20 individuals in this state under each of the manufacturer's brands
21 during the six-month period from October 1, 2012, to March 31, 2013.

22 4. By August 1, 2014, retailers shall report to each television
23 manufacturer, by model, the number of televisions sold at retail to
24 individuals in this state under each of the manufacturer's brands
25 between January 1, 2014, and June 30, 2014.

26 5. No later than February fifteenth of each program year,
27 retailers shall report to each television manufacturer, by model, the
28 number of televisions sold at retail to individuals in this state under
29 each of the manufacturer's brands during the previous program year.

260.1220. 1. Prior to January first of each program year, each
2 dismantler/demanufacturer and refurbisher shall register with the
3 department and submit a registration fee under subsection 2 of this
4 section for that program year. Registration shall be on forms and in a

5 format prescribed by the department and shall include, but not be
6 limited to, the address of each location where the
7 dismantler/demanufacturer or refurbisher manages CEDs or EEDs and
8 identification of each location at which the dismantler/demanufacturer
9 or refurbisher accepts CEDs or EEDs from a residence.

10 2. The registration fee for program year 2014 is two thousand
11 five hundred dollars. For program years 2015 and thereafter, the
12 registration fee is one thousand five hundred dollars each year.

13 3. No person shall act as a dismantler/demanufacturer or a
14 refurbisher of CEDs for a manufacturer obligated to meet goals under
15 sections 260.1200 to 260.1240 unless the dismantler/demanufacturer or
16 refurbisher is registered and has paid the registration fee as required
17 under this section.

18 4. Dismantlers/demanufacturers and refurbishers shall, at a
19 minimum, comply with all of the following:

20 (1) Dismantlers/demanufacturers and refurbishers shall comply
21 with federal, state, and local laws and regulations, including federal
22 and state minimum wage laws, specifically relevant to the handling,
23 processing, refurbishing and recycling of residential CEDs and shall
24 have proper authorization by all appropriate governing authorities to
25 perform the handling, processing, refurbishment, and recycling;

26 (2) Dismantlers/demanufacturers and refurbishers shall
27 implement the appropriate measures to safeguard occupational and
28 environmental health and safety, through the following:

29 (a) Environmental health and safety training of personnel,
30 including training with regard to material and equipment handling,
31 worker exposure, controlling releases, and safety and emergency
32 procedures;

33 (b) An up-to-date, written plan for the identification and
34 management of hazardous materials; and

35 (c) An up-to-date, written plan for reporting and responding to
36 exceptional pollutant releases, including emergencies such as
37 accidents, spills, fires, and explosions;

38 (3) Dismantlers/demanufacturers and refurbishers shall
39 maintain:

40 (a) Commercial general liability insurance or the equivalent
41 corporate guarantee for accidents and other emergencies with limits of

42 not less than one million dollars per occurrence and one million dollars
43 aggregate; and

44 (b) Pollution legal liability insurance with limits not less than
45 one million dollars per occurrence for companies engaged solely in the
46 dismantling activities;

47 (4) Dismantlers/demanufacturers and refurbishers shall maintain
48 on file documentation that demonstrates the completion of an
49 environmental health and safety audit completed and certified by a
50 competent internal and external auditor annually. A competent auditor
51 is an individual who, through professional training or work experience,
52 is appropriately qualified to evaluate the environmental health and
53 safety conditions, practices, and procedures of the
54 facility. Documentation of auditors' qualifications shall be available for
55 inspection by department officials and third-party auditors;

56 (5) Dismantlers/demanufacturers and refurbishers shall maintain
57 on file proof of workers' compensation and employers' liability
58 insurance;

59 (6) Dismantlers/demanufacturers and refurbishers shall provide
60 adequate assurance (such as bonds or corporate guarantee) to cover
61 environmental and other costs of the closure of the
62 dismantler/demanufacturer or refurbisher's facility, including cleanup
63 of stockpiled equipment and materials;

64 (7) Dismantlers/demanufacturers and refurbishers shall apply
65 due diligence principles to the selection of facilities to which
66 components and materials (such as plastics, metals, and circuit boards)
67 from CEDs and EEDs are sent for reuse and recycling;

68 (8) Dismantlers/demanufacturers and refurbishers shall establish
69 a documented environmental management system that is appropriate
70 in level of detail and documentation to the scale and function of the
71 facility, including documented regular self-audits or inspections of the
72 dismantler/demanufacturer or refurbisher's environmental compliance
73 at the facility;

74 (9) Dismantlers/demanufacturers and refurbishers shall use the
75 appropriate equipment for the proper processing of incoming materials
76 as well as controlling environmental releases to the environment. The
77 dismantling operations and storage of CED and EED components that
78 contain hazardous substances shall be conducted indoors and over

79 impervious floors. Storage areas shall be adequate to hold all
80 processed and unprocessed inventory. When heat is used to soften
81 solder and when CED and EED components are shredded, operations
82 shall be designed to control indoor and outdoor hazardous air
83 emissions;

84 (10) Dismantlers/demanufacturers and refurbishers shall
85 establish a system for identifying and properly managing components
86 (such as circuit boards, batteries, CRTs, and mercury phosphor lamps)
87 that are removed from CEDs and EEDs during
88 disassembly. Dismantlers/demanufacturers and refurbishers shall
89 properly manage all hazardous and other components requiring special
90 handling from CEDs and EEDs consistent with federal, state, and local
91 laws and regulations. Dismantlers/demanufacturers and refurbishers
92 shall provide visible tracking (such as hazardous waste manifests or
93 bills of lading) of hazardous components and materials from the facility
94 to the destination facilities and documentation (such as contracts)
95 stating how the destination facility processes the materials received. No
96 dismantler/demanufacturer or refurbisher may send, either directly or
97 through intermediaries, hazardous wastes to solid waste (nonhazardous
98 waste) landfills or to nonhazardous waste incinerators for disposal or
99 energy recovery. For the purpose of these guidelines, smelting of
100 hazardous wastes to recover metals for reuse in conformance with all
101 applicable laws and regulations is not considered disposal or energy
102 recovery;

103 (11) Dismantlers/demanufacturers and refurbishers shall use a
104 regularly implemented and documented monitoring and record-keeping
105 program that tracks inbound CED and EED material weights (total) and
106 subsequent outbound weights (total to each destination), injury and illness
107 rates, and compliance with applicable permit parameters including
108 monitoring of effluents and emissions. Dismantlers/demanufacturers and
109 refurbishers shall maintain contracts or other documents, such as sales
110 receipts, suitable to demonstrate:

111 (a) The reasonable expectation that there is a downstream
112 market or uses for designated electronics (which may include recycling
113 or reclamation processes such as smelting to recover metals for reuse);
114 and

115 (b) That any residuals from recycling or reclamation processes,

116 or both, are properly handled and managed to maximize reuse and
117 recycling of materials to the extent practical;

118 (12) Dismantlers/demanufacturers and refurbishers shall comply
119 with federal and international law and agreements regarding the
120 export of used products or materials. In the case of exports of CEDs
121 and EEDs, dismantlers/demanufacturers and refurbishers shall comply
122 with applicable requirements of the United States and of the import
123 and transit countries and shall maintain proper business records
124 documenting its compliance. No dismantler/demanufacturer or
125 refurbisher shall establish or use intermediaries for the purpose of
126 circumventing these United States import and transit country
127 requirements;

128 (13) Dismantlers/demanufacturers and refurbishers that conduct
129 transactions involving the transboundary shipment of used CEDs and
130 EEDs shall use contracts (or the equivalent commercial arrangements)
131 made in advance that detail the quantity and nature of the materials
132 to be shipped. For the export of materials to a foreign country (directly
133 or indirectly through downstream market contractors):

134 (a) The shipment of intact televisions and computer monitors
135 destined for reuse shall include only whole products that are tested and
136 certified as being in working order or requiring only minor repair (e.g.
137 not requiring the replacement of circuit boards or CRTs), shall be
138 destined for reuse with respect to the original purpose, and the
139 recipient shall have verified a market for the sale or donation of such
140 product for reuse;

141 (b) The shipments of CEDs and EEDs for material recovery shall
142 be prepared in a manner for recycling, including, without limitation,
143 smelting where metals will be recovered, plastics recovery and
144 glass-to-glass recycling; or

145 (c) The shipment of CEDs and EEDs are being exported to
146 companies or facilities that are owned or controlled by the original
147 equipment manufacturer;

148 (14) Dismantlers/demanufacturers and refurbishers shall
149 maintain the following export records for each shipment on file for a
150 minimum of three years:

151 (a) The facility name and the address to which shipment is
152 exported;

- 153 **(b) The shipment contents and volumes;**
154 **(c) The intended use of contents by the destination facility;**
155 **(d) Any specification required by the destination facility in**
156 **relation to shipment contents;**
157 **(e) An assurance that all shipments for export, as applicable to**
158 **the CED manufacturer, are legal and satisfy all applicable laws of the**
159 **destination country;**
160 **(15) Dismantlers/demanufacturers and refurbishers shall employ**
161 **industry-accepted procedures for the destruction or sanitization of data**
162 **on hard drives and other data storage devices. Acceptable guidelines**
163 **for the destruction or sanitization of data are contained in the National**
164 **Institute of Standards and Technology's Guidelines for Media**
165 **Sanitation or those guidelines certified by the National Association for**
166 **Information Destruction;**
167 **(16) No dismantler/demanufacturer or refurbisher shall employ**
168 **prison labor in any operation related to the collection, transportation,**
169 **recycling, and refurbishment of CEDs and EEDs. No**
170 **dismantler/demanufacturer or refurbisher may employ any third party**
171 **that uses or subcontracts for the use of prison labor.**

260.1222. 1. No later than January first of each program year,
2 collectors that collect or receive CEDs or EEDs for one or more
3 manufacturers, dismantlers/demanufacturers, or refurbishers shall
4 register with the department. Registration shall be in the form and
5 manner required by the department and shall include, without
6 limitation, the address of each location where CEDs or EEDs are
7 received and the identification of each location at which the collector
8 accepts CEDs or EEDs from a residence.

9 2. Manufacturers, dismantlers/demanufacturer, refurbishers also
10 acting as collectors shall so indicate on their registration under section
11 260.1216 or 260.1220 and not register separately as collectors.

12 3. No later than August 15, 2014, collectors shall submit to the
13 department, on forms and in a format prescribed by the department, a
14 report for the period from January 1, 2014, to June 30, 2014, that
15 contains the following information: the total weight of computers, the
16 total weight of computer monitors, the total weight of televisions, and
17 the total weight of EEDs collected or received for each manufacturer.

18 4. No later than May first of each program year, collectors shall

19 submit to the department, on forms and in a format prescribed by the
20 department, a report that contains the following information for the
21 previous program year:

22 (1) The total weight of computers, the total weight of computer
23 monitors, the total weight of televisions, and the total weight of EEDs
24 collected or received for each manufacturer during the program year;

25 (2) A list of each dismantler/demanufacturer and refurbisher that
26 received CEDs and EEDs from the collector and the total weight each
27 dismantler/demanufacturer and refurbisher received;

28 (3) The address of each collector's facility where the CEDs and
29 EEDs were collected or received. Each facility address shall include
30 the solid waste management district in which the facility is located.

31 5. Collectors may accept no more than ten CEDs or EEDs at one
32 time from individual members of the public and, when scheduling
33 collection events, shall provide no fewer than thirty days' notice to the
34 solid waste management district waste department of those events.

260.1224. For program year 2014 and later, underserved solid
2 waste management districts shall be solid waste management districts
3 of this state that, during the program year two years prior, were not
4 served by a minimum of one collection site that:

5 (1) Accepted all types of CEDs and EEDs; and

6 (2) Was open for a minimum of eight hours on at least one day
7 per month of that program year.

260.1226. 1. The office of administration and the division of
2 purchasing and materials management shall ensure that all bid
3 specifications and contracts for the purchase or lease of desktop
4 computers, laptop or notebook computers, and computer monitors, by
5 state agencies under a statewide master contract require that the
6 electronic products have a bronze performance tier or higher
7 registration under the Electronic Product Environmental Assessment
8 Tool (EPEAT) operated by the Green Electronics Council.

9 2. The office of administration and the division of purchasing
10 and materials management shall ensure that bid specifications and
11 contracts for the purchase or lease of televisions and printers by state
12 agencies under a statewide master contract require that the televisions
13 have a bronze performance tier or higher registration under EPEAT if
14 the office of administration and the division determine that there are

15 an adequate number of the televisions registered under EPEAT to
16 provide a sufficiently competitive bidding environment.

17 3. This section applies to bid specifications issued, and contracts
18 entered into, on or after January 1, 2014.

260.1228. Following the adoption of a federal law or regulation
2 that establishes mandated recycling goals for CEDs that equal or
3 exceed the goals set forth in sections 260.1200 to 260.1240, the
4 department shall notify the general assembly of the federal law or
5 regulation and recommend the repeal of sections 260.1200 to 260.1240.

260.1230. 1. Except as otherwise provided in sections 260.1200 to
2 260.1240, any person who violates any provision of sections 260.1200 to
3 260.1240 or fails to perform any duty under sections 260.1200 to
4 260.1240 is liable for a civil penalty not to exceed one thousand dollars
5 for the violation and an additional civil penalty not to exceed one
6 thousand dollars for each day the violation continues and is liable for
7 a civil penalty not to exceed five thousand dollars for a second or
8 subsequent violation and an additional civil penalty not to exceed one
9 thousand dollars for each day the second or subsequent violation
10 continues.

11 2. A manufacturer that is not registered with the department as
12 required under sections 260.1200 to 260.1240, or that has not paid the
13 registration fee as required under sections 260.1200 to 260.1240, is
14 liable for a civil penalty not to exceed ten thousand dollars for the
15 violation and an additional civil penalty not to exceed ten thousand
16 dollars for each day the violation continues.

17 3. A manufacturer in violation of subsection 4 of section 260.1216
18 in program year 2014 or thereafter is liable for a civil penalty equal to
19 the following:

20 (1) In program year 2016, if the total weight of CEDs and EEDs
21 recycled or processed for reuse by the manufacturer is less than sixty
22 percent of the manufacturer's individual recycling or reuse goal set
23 forth in section 260.1212, the manufacturer shall pay a penalty equal to
24 the product of: seventy cents per pound, multiplied by the difference
25 between the manufacturer's individual recycling or reuse goal and the
26 total weight of CEDs and EEDs recycled or processed for reuse by the
27 manufacturer during the program year;

28 (2) In program year 2017, and each year thereafter, if the total

29 weight of CEDs and EEDs recycled or processed for reuse by the
30 manufacturer is less than seventy-five percent of the manufacturer's
31 individual recycling or reuse goal set forth in section 260.1212, the
32 manufacturer shall pay a penalty equal to the product of: seventy cents
33 per pound, multiplied by the difference between the manufacturer's
34 individual recycling or reuse goal and the total weight of CEDs and
35 EEDs recycled or processed for reuse by the manufacturer during the
36 program year.

37 4. Beginning January 1, 2014, a manufacturer in violation of
38 subsection 5, 8, 9, 10, 11, or 12 of section 260.1216 is liable for a civil
39 penalty not to exceed five thousand dollars for the violation.

40 5. Any person in violation of section 260.1220 is liable for a civil
41 penalty not to exceed five thousand dollars for the violation.

42 6. A knowing violation of subsections 1 and 3 of section 260.1236
43 is a petty offense punishable by a fine of one hundred dollars.

44 7. The penalties provided for in sections 260.1200 to 260.1240 may
45 be recovered in a civil action brought by the attorney general in the
46 name of the people of the state of Missouri.

47 8. The attorney general, at the request of the department or on
48 his or her own motion, may institute a civil action for an injunction,
49 prohibitory or mandatory, to restrain violations of sections 260.1200 to
50 260.1240 or to require such actions as may be necessary to address
51 violations of sections 260.1200 to 260.1240.

52 9. The penalties and injunctions provided in sections 260.1200 to
53 260.1240 are in addition to any penalties, injunctions, or other relief
54 provided under any other law. Nothing in sections 260.1200 to 260.1240
55 bars a cause of action by the state for any other penalty, injunction, or
56 relief provided by any other law.

260.1232. 1. The registration fees established in sections 260.1200
2 to 260.1240 shall be transmitted to the department in a form and
3 manner as shall be prescribed by the department for deposit into the
4 solid waste management fund created in section 260.330. The
5 provisions of section 33.080 to the contrary notwithstanding, moneys in
6 the account shall not lapse to general revenue at the end of each
7 biennium.

8 2. (1) Such registration fees deposited into the solid waste
9 management fund shall be allocated as follows:

10 (a) Thirty-nine percent of the revenues shall be dedicated, upon
11 appropriation, to support the duties of the department under sections
12 260.1200 to 260.1240; and

13 (b) Sixty-one percent of the revenues shall be allocated through
14 grants, upon appropriation, to participating solid waste management
15 districts. Revenues to be allocated under this subdivision shall be
16 equally divided between participating solid waste management
17 districts.

18 (2) Any moneys remaining unencumbered in any fiscal year due
19 to insufficient or inadequate applications may be reallocated under this
20 subsection in the subsequent fiscal year.

21 3. Such moneys shall be used by the solid waste management
22 districts for grants to support public education about use, recovery,
23 and the effect of improper disposal of CEDs and EEDs on the
24 environment, to stimulate recovery and recycling of CEDs and EEDs
25 through funding of collection events and its associated costs and grants
26 for equipment used in the business of recycling and/or recovery of
27 CEDs and EEDs.

 260.1234. Nothing in sections 260.1200 to 260.1240 affects the
2 validity or application of any other law of this state, or regulations
3 adopted thereunder.

 260.1236. 1. Except as may be provided under subsection 5 of
2 this section, and beginning January 1, 2014, no person shall knowingly
3 cause or allow the mixing of a CED, or any other computer, computer
4 monitor, printer, or television with municipal waste that is intended for
5 disposal at a landfill.

6 2. Except as may be provided under subsection 5 of this section,
7 and beginning January 1, 2014, no person may knowingly cause or
8 allow the disposal of a CED or any other computer, computer monitor,
9 printer, or television in a sanitary landfill.

10 3. Beginning January 1, 2014, no person may knowingly cause or
11 allow the mixing of a CED, or any other computer, computer monitor,
12 printer, or television with waste that is intended for disposal by
13 burning or incineration.

14 4. Beginning January 1, 2014, no person may knowingly cause or
15 allow the burning or incineration of a CED, or any other computer,
16 computer monitor, printer, or television.

17 **5. (1) Beginning April 1, 2014, but no later than December 31,**
18 **2015, the department or the solid waste management program is**
19 **authorized to review temporary CED landfill ban waiver petitions by**
20 **solid waste management districts and determine whether the respective**
21 **solid waste management district's or action department's jurisdiction**
22 **may be granted a temporary CED landfill ban waiver due to a lack of**
23 **funds and a lack of collection opportunities to collect CEDs and EEDs**
24 **within the solid waste management district's or action department's**
25 **jurisdiction. If the department grants a waiver under this subsection,**
26 **subsections 1 and 2 of this section shall not apply to CEDs and EEDs**
27 **that are taken out of service from residences within the jurisdiction of**
28 **the solid waste management district or action department receiving the**
29 **waiver and disposed of during the remainder of the program year in**
30 **which the petition is filed.**

31 **(2) The petition from the solid waste management district or**
32 **action department shall include the following:**

33 **(a) Documentation of the solid waste management district's or**
34 **action department's attempts to gain funding, as well as the total**
35 **funding obtained, for the collection of CEDs and EEDs in its**
36 **jurisdiction from manufacturers or other units of government in the**
37 **state; and**

38 **(b) An assessment of other collection opportunities in the solid**
39 **waste management district's or action department's jurisdiction**
40 **demonstrating insufficient capacity for the anticipated volume of CEDs**
41 **and EEDs for the remainder of the program year in which the petition**
42 **is being filed.**

43 **(3) In addition to the criteria listed in subdivision (2) of this**
44 **subsection, the department shall consider the following additional**
45 **criteria when reviewing a petition:**

46 **(a) Total weight of CEDs and EEDs collected in the solid waste**
47 **management district's or action department's jurisdiction during all**
48 **preceding program years;**

49 **(b) Total weight of CEDs and EEDs collected in the solid waste**
50 **management district's or action department's jurisdiction during the**
51 **year in which the petition is filed; and**

52 **(c) The projected difference in weight between prior program**
53 **years and the year in which the petition is filed.**

54 (4) Within sixty days after the filing of the petition with the
55 department, the department shall determine, based on the criteria in
56 subdivisions (2) and (3) of this subsection, whether a temporary CED
57 landfill ban waiver shall be granted to the respective solid waste
58 management district or action department for the remainder of the
59 program year in which the petition is filed. The department's decision
60 to grant such a waiver shall be based upon a showing by clear and
61 convincing evidence that a solid waste management district or action
62 department has a lack of funds and its respective jurisdiction lacks
63 sufficient collection opportunities to collect CEDs and EEDs. If the
64 department denies the petition for a landfill ban waiver, the
65 department's order shall be final and immediately appealable to the
66 circuit court having jurisdiction over the petitioner.

67 (5) Within five days after granting a temporary CED landfill ban
68 waiver, the department shall provide written notice of the department's
69 decision. The notice shall be provided at least fifteen days prior to the
70 waiver taking effect.

71 (6) Any solid waste management district or action department
72 granted a temporary CED landfill ban waiver shall, within seven days
73 after receiving the waiver, inform all solid waste haulers and landfill
74 operators used by the solid waste management district or action
75 department for solid waste disposal that a waiver has been granted for
76 the remainder of the program year. The notification shall be provided
77 to the solid waste haulers and landfill operators at least fifteen days
78 prior to the waiver taking effect.

79 (7) Between April 1, 2016, and December 31, 2017, if a temporary
80 CED landfill ban waiver has been granted to a petitioner, no person
81 disposing of a CED shall be subject to any enforcement proceeding
82 unless he or she disposes of the CED with knowledge that the CED is
83 from a solid waste management district or action department that has
84 not received a temporary CED landfill ban waiver.

 260.1238. Financial or proprietary information submitted to the
2 department under sections 260.1200 to 260.1240 shall not be considered
3 a public record under chapter 610.

 260.1240. The department shall promulgate rules to implement
2 the provisions of sections 260.1200 to 260.1240. Any rule or portion of
3 a rule, as that term is defined in section 536.010, that is created under

4 the authority delegated in this section shall become effective only if it
5 complies with and is subject to all of the provisions of chapter 536 and,
6 if applicable, section 536.028. This section and chapter 536 are
7 nonseverable and if any of the powers vested with the general assembly
8 pursuant to chapter 536 to review, to delay the effective date, or to
9 disapprove and annul a rule are subsequently held unconstitutional,
10 then the grant of rulemaking authority and any rule proposed or
11 adopted after August 28, 2013, shall be invalid and void.

[260.1050. Sections 260.1050 to 260.1101 may be cited as
2 the "Manufacturer Responsibility and Consumer Convenience
3 Equipment Collection and Recovery Act".]

[260.1053. As used in sections 260.1050 to 260.1101, the
2 following terms mean:

3 (1) "Brand", the name, symbol, logo, trademark, or other
4 information that identifies a product rather than the components
5 of the product;

6 (2) "Computer materials", a desktop or notebook computer
7 and includes a computer monitor or other display device that does
8 not contain a tuner;

9 (3) "Consumer", an individual who uses equipment that is
10 purchased primarily for personal or home business use;

11 (4) "Department", department of natural resources;

12 (5) "Equipment", computer materials;

13 (6) "Manufacturer", a person:

14 (a) Who manufactures or manufactured equipment under
15 a brand that:

16 a. The person owns or owned; or

17 b. The person is or was licensed to use, other than under a
18 license to manufacture equipment for delivery exclusively to or at
19 the order of the licensor;

20 (b) Who sells or sold equipment manufactured by others
21 under a brand that:

22 a. The person owns or owned; or

23 b. The person is or was licensed to use, other than under a
24 license to manufacture equipment for delivery exclusively to or at
25 the order of the licensor;

26 (c) Who manufactures or manufactured equipment without
27 affixing a brand;

28 (d) Who manufactures or manufactured equipment to which
29 the person affixes or affixed a brand that:

30 a. The person does not or has not owned; or

31 b. The person is not or was not licensed to use; or

32 (e) Who imports or imported equipment manufactured
33 outside the United States into the United States unless at the time
34 of importation the company or licensee that sells or sold the
35 equipment to the importer has or had assets or a presence in the
36 United States sufficient to be considered the manufacturer.]

[260.1059. 1. The collection, recycling, and reuse provisions
2 of sections 260.1050 to 260.1101 apply to equipment used and
3 returned to the manufacturer by a consumer in this state and do
4 not impose any obligation on an owner or operator of a solid waste
5 facility.

6 2. Sections 260.1050 to 260.1101 do not apply to:

7 (1) Any computer material that is an electronic device that
8 is a part of a motor vehicle or any part of a motor vehicle
9 assembled by, or for, a vehicle manufacturer or franchised dealer,
10 including replacement parts for use in a motor vehicle;

11 (2) Any electronic device that is functionally or physically
12 a part of, connected to or integrated within a larger piece of
13 equipment designed and intended for use in an industrial,
14 governmental, commercial, research and development, or medical
15 setting, including diagnostic, monitoring, or other medical products
16 as that term is defined under the federal Food, Drug, and Cosmetic
17 Act or equipment used for security, sensing, monitoring, or
18 antiterrorism purposes;

19 (3) A covered electronic device that is contained within a
20 clothes washer, clothes dryer, refrigerator and freezer, microwave
21 oven, conventional oven or range, dishwasher, room air conditioner,
22 dehumidifier, or air purifier;

23 (4) Telephone of any type, including mobile telephones and
24 wireless devices;

25 (5) A personal digital assistant or P.D.A.;

26 (6) A consumer's lease of equipment or a consumer's use of
27 equipment under a lease agreement; or

28 (7) The sale or lease of equipment to an entity when the
29 manufacturer and the entity enter into a contract that effectively
30 addresses the collection, recycling, and reuse of equipment that has
31 reached the end of its useful life.]

[260.1062. 1. Before a manufacturer may offer equipment
2 for sale in this state, the manufacturer shall:

3 (1) Adopt and implement a recovery plan;

4 (2) Submit a written copy of the recovery plan to the
5 department; and

6 (3) Affix a permanent, readily visible label to the equipment
7 with the manufacturer's brand.

8 2. The recovery plan shall enable a consumer to recycle
9 equipment without paying a separate fee at the time of recycling
10 and shall include provisions for:

11 (1) The manufacturer's collection from a consumer of any
12 equipment that has reached the end of its useful life and is labeled
13 with the manufacturer's brand; and

14 (2) Recycling or reuse of equipment collected under
15 subdivision (1) of this subsection.

16 3. The collection of equipment provided under the recovery
17 plan shall be:

18 (1) Reasonably convenient and available to consumers in
19 this state; and

20 (2) Designed to meet the collection needs of consumers in
21 this state.

22 4. Examples of collection methods that alone or combined
23 meet the convenience requirements of this section include a system:

24 (1) By which the manufacturer or the manufacturer's
25 designee offers the consumer an option for returning equipment by
26 mail at no charge to the consumer;

27 (2) Using a physical collection site that the manufacturer
28 or the manufacturer's designee keeps open and staffed and to
29 which the consumer may return equipment; and

30 (3) Using a collection event held by the manufacturer or the

31 manufacturer's designee at which the consumer may return
32 equipment.

33 5. Collection services under this section may use existing
34 collection and consolidation infrastructure for handling equipment
35 and may include systems jointly managed by a group of
36 manufacturers, electronic recyclers and repair shops, recyclers of
37 other commodities, reuse organizations, not-for-profit corporations,
38 retailers, recyclers, and other suitable operations. If a
39 manufacturer or its designee offers a mail-back system as described
40 in subsection 4 of this section, either individually or by working
41 together with a group of manufacturers or by working with others,
42 it shall be deemed to meet the convenience requirements of this
43 section.

44 6. The recovery plan shall include information for the
45 consumer on how and where to return the manufacturer's
46 equipment. The manufacturer:

47 (1) Shall include collection, recycling, and reuse information
48 on the manufacturer's publicly available internet site;

49 (2) Shall provide collection, recycling, and reuse information
50 to the department; and

51 (3) May include collection, recycling, and reuse information
52 in the packaging for or in other materials that accompany the
53 manufacturer's equipment when the equipment is sold.

54 7. Information about collection, recycling, and reuse on a
55 manufacturer's publicly available internet site does not constitute
56 a determination by the department that the manufacturer's
57 recovery plan or actual practices are in compliance with sections
58 260.1050 to 260.1101 or other state or federal law.

59 8. Each manufacturer shall submit a report to the
60 department not later than January thirty-first of each year that
61 includes:

62 (1) The weight of equipment collected, recycled, and reused
63 during the preceding calendar year; and

64 (2) Documentation certifying that the collection, recycling,
65 and reuse of equipment during the preceding calendar year was
66 conducted in a manner that complies with section 260.1089

67 regarding sound environmental management.

68 9. If more than one person is a manufacturer of a certain
69 brand of equipment as defined by section 260.1053, any of those
70 persons may assume responsibility for and satisfy the obligations
71 of a manufacturer under sections 260.1050 to 260.1101 for that
72 brand. If none of those persons assumes responsibility or satisfies
73 the obligations of a manufacturer for the equipment of that brand,
74 the department may consider any of those persons to be the
75 responsible manufacturer for purposes of sections 260.1050 to
76 260.1101.

77 10. The obligations under sections 260.1050 to 260.1101 of
78 a manufacturer who manufactures or manufactured equipment, or
79 sells or sold equipment manufactured by others, under a brand
80 that was previously used by a different person in the manufacture
81 of the equipment extends to all equipment bearing that brand
82 regardless of its date of manufacture.]

[260.1065. 1. A person who is a retailer of equipment shall
2 not sell or offer to sell new equipment in this state unless the
3 equipment is labeled with the manufacturer's label and the
4 manufacturer is included on the department's list of manufacturers
5 that have recovery plans.

6 2. Retailers can go to the department's internet site as
7 outlined in section 260.1071 and view all manufacturers that are
8 listed as having registered a collection program. Covered electronic
9 products from manufacturers on that list may be sold in or into
10 this state.

11 3. A retailer is not required to collect equipment for
12 recycling or reuse under sections 260.1050 to 260.1101.]

[260.1068. 1. A manufacturer or retailer of equipment is
2 not liable in any way for information in any form that a consumer
3 leaves on computer materials that are collected, recycled, or reused
4 under sections 260.1050 to 260.1101.

5 2. The consumer is responsible for any information in any
6 form left on the consumer's computer materials that are collected,
7 recycled, or reused.

8 3. Compliance with sections 260.1050 to 260.1101 does not

9 exempt a person from liability under other law.]

10 [260.1071. 1. The department shall educate consumers
11 regarding the collection, recycling, and reuse of equipment.

12 2. The department shall host or designate another person
13 to host an internet site providing consumers with information
14 about the recycling and reuse of equipment, including best
15 management practices and information about and links to
16 information on:

17 (1) Manufacturers' collection, recycling, and reuse
18 programs, including manufacturers' recovery plans; and

19 (2) Equipment collection events, collection sites, and
20 community equipment recycling and reuse programs.]

21 [260.1074. 1. The department may conduct audits and
22 inspections to determine compliance with sections 260.1050 to
23 260.1101.

24 2. The department and the attorney general, as
appropriate, shall enforce sections 260.1050 to 260.1101 and, except
as provided by subsections 4 and 5 of this section, take enforcement
action against any manufacturer, retailer, or person who recycles
or reuses equipment for failure to comply with sections 260.1050 to
260.1101.

3 3. The attorney general may file suit to enjoin an activity
related to the sale of equipment in violation of sections 260.1050 to
260.1101.

4 4. The department shall issue a written warning notice to
a person upon the person's first violation of sections 260.1050 to
260.1101. The person shall comply with sections 260.1050 to
260.1101 not later than the sixtieth day after the date the warning
notice is issued.

5 5. A retailer who receives a warning notice from the
department that the retailer's inventory violates sections 260.1050
to 260.1101 because it includes equipment from a manufacturer
that has not submitted the recovery plan required by section
260.1062 shall bring the inventory into compliance with sections
260.1050 to 260.1101 not later than the sixtieth day after the date
the warning notice is issued.

25 6. (1) The department may assess a penalty against a
26 manufacturer that does not label its equipment or adopt,
27 implement, or submit a recovery plan as required by section
28 260.1062. No penalty shall be assessed for a first violation and the
29 amount of the penalty shall not exceed ten thousand dollars for the
30 second violation or twenty-five thousand dollars for each
31 subsequent violation.

32 (2) Any penalty collected under this section shall be
33 credited to the "Equipment Recycling Subaccount", which is hereby
34 created, in the hazardous waste fund. Moneys in the subaccount
35 shall be used for the purpose of administering the provisions of
36 sections 260.1050 to 260.1101. The state treasurer shall be
37 custodian of the subaccount and may approve disbursements from
38 the fund in accordance with sections 30.170 and 30.180. Upon
39 appropriation, money in the subaccount shall be used solely for the
40 administration of sections 260.1050 to 260.1101. Any moneys
41 remaining in the subaccount at the end of the biennium shall
42 revert to the credit of the general revenue fund. The state
43 treasurer shall invest moneys in the fund in the same manner as
44 other funds are invested. Any interest and moneys earned on such
45 investments shall be credited to the subaccount.]

 [260.1077. Financial or proprietary information submitted
2 to the department under sections 260.1050 to 260.1101 shall not be
3 considered a public record under chapter 610.]

 [260.1080. The department shall compile information from
2 manufacturers and issue an electronic report to the committee in
3 each house of the general assembly having primary jurisdiction
4 over environmental matters not later than March first of each
5 year.]

 [260.1083. Sections 260.1050 to 260.1101 do not authorize
2 the department to impose a fee, including a recycling fee or
3 registration fee, on a consumer, manufacturer, retailer, or person
4 who recycles or reuses equipment.]

 [260.1089. 1. All equipment collected under sections
2 260.1050 to 260.1101 shall be recycled or reused in a manner that
3 complies with federal, state, and local law.

4 2. The department shall, by rule, adopt as mandatory
5 standards for recycling or reuse of equipment in this state the
6 standards provided by Electronics Recycling Operating Practices as
7 approved by the board of directors of the Institute of Scrap
8 Recycling Industries, Inc., April 25, 2006, or other standards issued
9 from the U.S. Environmental Protection Agency, if available.]

 [260.1092. 1. If federal law establishes a national program
2 for the collection and recycling of equipment and the department
3 determines that the federal law substantially meets the purposes
4 of sections 260.1050 to 260.1101, the department may adopt an
5 agency statement that interprets the federal law as preemptive of
6 sections 260.1050 to 260.1101.

7 2. Sections 260.1050 to 260.1101 shall expire on the date
8 the department issues a statement under this section.]

 [260.1101. 1. The department shall adopt any rules
2 required to implement sections 260.1050 to 260.1101 not later than
3 July 1, 2009. Any rule or portion of a rule, as that term is defined
4 in section 536.010, that is created under the authority delegated in
5 this section shall become effective only if it complies with and is
6 subject to all of the provisions of chapter 536 and, if applicable,
7 section 536.028. This section and chapter 536 are nonseverable
8 and if any of the powers vested with the general assembly pursuant
9 to chapter 536 to review, to delay the effective date, or to
10 disapprove and annul a rule are subsequently held
11 unconstitutional, then the grant of rulemaking authority and any
12 rule proposed or adopted after August 28, 2008, shall be invalid
13 and void.

14 2. Sections 260.1050 to 260.1101 shall not be enforced
15 before rules developed under this section are promulgated.

16 3. It shall not be considered a violation of sections 260.1050
17 to 260.1101 for a retailer to sell any inventory accrued before
18 August 28, 2008.]

✓