
A BILL FOR AN ACT

RELATING TO RECYCLING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 339D, Hawaii Revised Statutes, is
2 amended by adding seven new sections to part II, to be
3 appropriately designated and to read as follows:

4 "§339D-A Recycling goals. (a) The department shall use
5 the best available information to establish the weight of all
6 electric devices sold in the State, including but not limited to
7 the reports submitted pursuant to section 339D-C, state and
8 national sales data, and other reliable commercially available,
9 supplemental sources of information.

10 (b) No later than September 1, 2013, and annually
11 thereafter, the department shall notify each electronic device
12 manufacturer or representative organization of its recycling
13 obligation.

14 (c) Each electronic device manufacturer or representative
15 organization shall collect and recycle a goal amount, by weight,
16 of their products sold in the State two years prior as follows,
17 unless amended by rule pursuant to chapter 91:

18 (1) For 2014, _____ per cent;



1 (2) For 2015, _____ per cent; and

2 (3) For 2016 and thereafter, _____ per cent.

3 (d) Electronic device manufacturers and representative
4 organizations may count reused electronic devices towards their
5 recycling goal amount.

6 (e) Electronic device manufacturers and representative
7 organizations may collect any electronic device or electric
8 device to meet their recycling goal amount.

9 (f) Collectors of covered electronic devices on behalf of
10 electronic device manufacturers or representative organizations
11 may limit the type of electronic devices or electric devices
12 that they will accept and may limit the number of items that
13 they will accept from a single person; provided that they shall
14 clearly indicate those limits on signage at their collection
15 sites and on their promotional literature.

16 **§339D-B Recordkeeping requirements.** (a) Each electronic
17 device manufacturer or representative organization shall
18 maintain records of the following for a minimum five years:

19 (1) The annual amount, in weight, of sales of their
20 covered electronic devices in the State;



1 (2) The annual amount of electronic devices or electric
2 devices collected for recycling or reuse by county;
3 and

4 (3) The annual amount of electronic devices or electric
5 devices recycled or reused by each recycler on behalf
6 of the manufacturer.

7 (b) Nothing in this part is intended to exempt any person
8 from liability that the person would otherwise have under
9 applicable law.

10 **§339D-C Reporting requirements.** (a) By August 1, 2013,
11 and annually thereafter, each electronic device manufacturer or
12 representative organization shall report to the department its
13 sales, by weight, of the manufacturer's or its members' covered
14 electronic devices sold in the State the previous calendar year,
15 categorized by product type.

16 (b) If the electronic device manufacturer or
17 representative organization is unable to provide accurate sales
18 data, it shall explain why the data cannot be provided. The
19 electronic device manufacturer or representative organization
20 shall then report an estimate of its sales data and provide an
21 explanation of the methods used to derive the estimate.



1 (c) By March 31, 2014, and annually thereafter, each
2 electronic device manufacturer or representative organization
3 shall report to the department the total weight of all
4 electronic devices or electric devices recycled or reused, by
5 county, in the previous year. Reports shall be submitted on
6 forms prescribed by the department.

7 §339D-D Collector registration. (a) By January 1, 2014,
8 all collectors shall register with the department, using forms
9 prescribed by the department, and pay to the department a
10 registration fee of \$250, provided that the registration fee
11 shall be waived for any nonprofit organization that meets the
12 requirements in section 501(c) of the Internal Revenue Code.
13 Thereafter, if a collector has not previously registered, the
14 collector shall register with the department prior to accepting
15 electric devices. A registration shall be valid until December
16 31 of each year.

17 (b) Collectors shall submit an annual renewal of its
18 registration with the payment of a registration fee of \$250, by
19 January 1 of each year; provided that the registration fee shall
20 be waived for any nonprofit organization that meets the
21 requirements in section 501(c) of the Internal Revenue Code.



1 §339D-E Collector recordkeeping requirements. Collectors
2 shall maintain records for a minimum of five years for the
3 following:

- 4 (1) The annual amount, in weight, of electric devices it
5 has collected for recycling and reuse and the amounts
6 sent for recycling and reuse; and
7 (2) Bills of lading or weight tickets for all electric
8 devices sent for recycling or reuse.

9 §339D-F Collector reporting requirements. By March 31,
10 2015, and annually thereafter, each collector shall report to
11 the department the weight of all electronic devices or electric
12 devices collected for recycling or reuse in the previous year
13 for the purposes of this chapter. Reports shall be submitted on
14 forms prescribed by the department and shall indicate the weight
15 of electronic devices or electric devices sent to each recycler.
16 Collectors shall also report the amount of electronic devices or
17 electric devices reused.

18 §339D-G Collector responsibility. (a) Collectors shall
19 possess and maintain all necessary business and environmental
20 permits.

21 (b) All collected electronic devices shall be sent for
22 recycling or reuse."



1 SECTION 2. Chapter 339D, Hawaii Revised Statutes, is
2 amended by adding two new sections to part III to be
3 appropriately designated and to read as follows:

4 "§339D-H Audit authority. The records of manufacturers,
5 collectors, and recyclers shall be made available, upon request,
6 for inspection by the department, a duly authorized agent of the
7 department, or the office of the auditor.

8 §339D-I Role of counties. Nothing in this chapter is
9 intended to require any county agency to include covered
10 electronic devices in any waste management activities or
11 programs intended to increase or provide opportunities for
12 recycling. Any county agency that collects covered electronic
13 devices in the course of waste management activities or programs
14 intended to increase or provide opportunities for recycling may
15 make electronic devices or electric devices collected in the
16 activities or programs available to individual electronic device
17 manufacturers or representative organizations; provided that the
18 electronic device manufacturer or representative organization
19 shall fairly compensate or reimburse the counties for their cost
20 of collecting the electronic devices or electric devices with
21 the compensation or reimbursement to be negotiated between the



1 county and the electronic device manufacturer or representative
2 organization."

3 SECTION 3. Section 339D-1, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By adding nine new definitions to be appropriately
6 inserted and to read:

7 "Collector" means a person who accepts covered electronic
8 devices for reuse or delivers the devices to a recycler for the
9 purposes of this chapter.

10 "Electric devices" means any device or appliance that
11 operates on electricity.

12 "Major appliances" means major appliances and any component
13 or replacement parts, including refrigerators, freezers, other
14 refrigeration appliances, clothes washers; clothes dryers,
15 central air conditioners, ranges and ovens, microwave ovens,
16 dishwashers, air conditioners, dehumidifiers, humidifiers, air
17 purifiers, electric water dispensers, compactors, food waste
18 disposals, heating, ventilation, air conditioning,
19 refrigeration, and water heating equipment, furnaces, water
20 heaters, boilers, and other similar major appliances.

21 "Peripheral" means any electrically powered device intended
22 for use with a computer, television, or similar device.



1 "Refurbish" means to recondition or repair a used product
2 to restore it to a saleable or, if donated, useable condition.

3 "Representative organization" means a nonprofit
4 organization created to administer and govern the collection,
5 transportation, and recycling program on behalf of the
6 electronic device manufacturers who are its constituent members.

7 "Reuse" means any operation by which an electronic device
8 changes ownership and is used for the same purpose for which it
9 was originally purchased.

10 "Small appliances" means small appliances and any component
11 or replacement part, including air treatment products, kitchen
12 appliances, beverage makers, garment care products, personal
13 care products, vacuum cleaners, and other similar household
14 small appliances.

15 "White goods" means discarded major appliances, including
16 but not limited to clothes dryers, hot water heaters,
17 refrigerators, stoves, and washing machines."

18 2. By amending the definition of "brand" to read:

19 "Brand" means a symbol, word, or mark that identifies a
20 covered electronic device [~~or a covered television~~], rather than
21 any of its components."



1 3. By amending the definition of "covered electronic
2 device" to read:

3 ""Covered electronic device":

4 (1) Means [~~a computer, computer printer, computer monitor,~~
5 ~~or portable computer with a screen size greater than~~
6 ~~four inches measured diagonally;~~] electronic equipment
7 intended for use by consumers and businesses, such as
8 televisions and their peripherals; computers and their
9 peripherals; and similar devices used by consumers and
10 businesses; and

11 (2) Shall not include:

12 (A) A covered electronic device that is a part of a
13 motor vehicle or any component part of a motor
14 vehicle assembled by or for a motor vehicle
15 manufacturer or franchised dealer, including
16 replacement parts for use in a motor vehicle;

17 (B) A covered electronic device that is functionally
18 or physically required as a part of a larger
19 piece of equipment designed and intended for use
20 in an industrial, commercial, or medical setting,
21 including diagnostic, monitoring, or control
22 equipment;



- 1 (C) ~~[A covered electronic device that is contained~~
2 ~~within a clothes washer, clothes dryer,~~
3 ~~refrigerator, refrigerator and freezer, microwave~~
4 ~~oven, conventional oven or range, dishwasher,~~
5 ~~room air conditioner, dehumidifier, or air~~
6 ~~purifier; or] Children's toys that meet the ASTM~~
7 ~~International F963 standard for toy safety;~~
- 8 (D) Equipment intended to change the physical
9 properties of ambient air;
- 10 (E) Lamps and other devices to provide artificial
11 illumination;
- 12 (F) Major appliances;
- 13 (G) Personal hygiene products;
- 14 (H) Power tools;
- 15 (I) Small appliances;
- 16 [~~D~~] (J) A telephone of any type[~~-~~]; or
- 17 (K) White goods."

18 4. By amending the definition of "electronic device
19 manufacturer" to read:

20 ""Electronic device manufacturer":

21 (1) Means any existing person:



- 1 (A) Who manufactures or manufactured covered
2 electronic devices under a brand that it owns or
3 owned or is or was licensed to use, other than a
4 license to manufacture covered electronic devices
5 for delivery exclusively to or at the order of
6 the licensor;
- 7 (B) Who sells or sold covered electronic devices
8 manufactured by others under a brand that the
9 seller owns or owned or is or was licensed to
10 use, other than a license to manufacture covered
11 electronic devices for delivery exclusively to or
12 at the order of the licensor;
- 13 (C) Who manufactures or manufactured covered
14 electronic devices without affixing a brand;
- 15 (D) Who manufactures or manufactured covered
16 electronic devices to which it affixes or affixed
17 a brand that it neither owns or owned nor is or
18 was licensed to use; or
- 19 (E) For whose account covered electronic devices
20 manufactured outside the United States are or
21 were imported into the United States; provided
22 that if at the time those covered electronic



1 devices are or were imported into the United
2 States and another person has registered as the
3 manufacturer of the brand of the covered
4 electronic devices, this paragraph shall not
5 apply;

6 (2) Shall not include persons who refurbish, repair, or
7 reuse damaged or used covered electronic devices or
8 who manufacture no more than one hundred [computers]
9 covered electronic devices per year."

10 5. By amending the definition of "recycling" to read:

11 ""Recycling" means processing (including disassembling,
12 dismantling, or shredding) covered electronic devices or
13 [~~covered televisions or~~] their components to recover a useable
14 product; provided that "recycling" does not include any process
15 defined as incineration under applicable laws and rules."

16 6. By deleting the definition of "covered television".

17 [~~"Covered television":~~

18 ~~(1) Means any device that is capable of receiving~~
19 ~~broadcast, cable, or satellite signals and displaying~~
20 ~~television or video programming, including without~~
21 ~~limitation any direct view or projection television~~
22 ~~with a viewable screen of nine inches or larger with~~



1 ~~display technology based on cathode ray tube, plasma,~~
2 ~~liquid crystal, digital light processing, liquid~~
3 ~~crystal on silicon, silicon crystal reflective~~
4 ~~display, light emitting diode, or similar technology~~
5 ~~marketed and intended for use by a household;~~

6 ~~(2) Shall not include:~~

7 ~~(A) A computer, computer printer, computer monitor,~~
8 ~~or portable computer;~~

9 ~~(B) A television that is a part of a motor vehicle or~~
10 ~~any component part of a motor vehicle assembled~~
11 ~~by or for a vehicle manufacturer or franchised~~
12 ~~dealer, including replacement parts for use in a~~
13 ~~motor vehicle;~~

14 ~~(C) A television that is functionally or physically~~
15 ~~required as a part of a larger piece of equipment~~
16 ~~designed and intended for use in an industrial,~~
17 ~~commercial, or medical setting, including~~
18 ~~diagnostic, monitoring, or control equipment;~~

19 ~~(D) A telephone of any type, including a mobile~~
20 ~~telephone; or~~

21 ~~(E) A global positioning system."]~~

22 7. By deleting the definition of "market share".



1 ~~["Market share":~~
2 ~~(1) Means the calculation of a television manufacturer's~~
3 ~~prior year's sales of televisions divided by all~~
4 ~~manufacturers' prior year's sales for all televisions,~~
5 ~~as determined by the department;~~
6 ~~(2) May be expressed as a percentage, a fraction, or a~~
7 ~~decimal fraction.]~~

8 8. By deleting the definition of "television manufacturer".

9 ~~["Television manufacturer" means a person who:~~
10 ~~(1) Manufactures for sale in the State a covered~~
11 ~~television under a brand that it licenses or owns;~~
12 ~~(2) Manufactures for sale in the State covered televisions~~
13 ~~without affixing a brand;~~
14 ~~(3) Resells into the State a covered television~~
15 ~~manufactured by others under a brand that the seller~~
16 ~~owns or is licensed to use;~~
17 ~~(4) Imports into the United States or exports from the~~
18 ~~United States a covered television for sale in the~~
19 ~~State;~~
20 ~~(5) Sells at retail a covered television acquired from an~~
21 ~~importer described in paragraph (4), and elects to~~
22 ~~register as the manufacturer for those products;~~

1 ~~(6) Manufactures covered televisions and supplies them to~~
2 ~~any person or persons within a distribution network~~
3 ~~that includes wholesalers or retailers in this State,~~
4 ~~or~~

5 ~~(7) Assumes the responsibilities and obligations of a~~
6 ~~television manufacturer under this chapter. In the~~
7 ~~event the television manufacturer is one who~~
8 ~~manufactures, sells, or resells covered televisions~~
9 ~~under a brand for which it has obtained the license,~~
10 ~~then the licensor or brand owner of the brand shall~~
11 ~~not be included in the definition of television~~
12 ~~manufacturer under paragraph (1) or (3)."]~~

13 SECTION 4. Section 339D-3, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§339D-3 Sales prohibition.** (a) Beginning [~~January 1,~~
16 ~~2010,~~] December 1, 2014, no electronic device manufacturer or
17 retailer shall sell or offer for sale any new covered electronic
18 device for delivery in this State unless:

19 (1) The covered electronic device is labeled with a brand,
20 and the label is permanently affixed and readily
21 visible; and



1 (2) The brand is included in a registration that is filed
2 with the department and that is effective pursuant to
3 section 339D-4(b)(3).

4 (b) Beginning April 1, ~~[2009,]~~ 2014, the department shall
5 maintain a list of each registered electronic device
6 manufacturer or representative organization and the brands
7 reported in each electronic device manufacturer's registration
8 ~~[and a list of brands for which no electronic device~~
9 ~~manufacturer has registered. The lists shall be posted on the~~
10 ~~department website and shall be updated by the first day of each~~
11 ~~month.]~~ or representative organization's registration. The list
12 shall be posted on the department's website and shall be updated
13 as necessary. Each retailer who sells or offers for sale any
14 new covered electronic device for delivery in this State shall
15 review these lists prior to selling the covered electronic
16 device. A retailer is considered to have complied with
17 subsection (a) if, on the date a new covered electronic device
18 was ordered by the retailer, the brand was included on the
19 ~~[department's]~~ list of registered brands ~~[reported in an~~
20 ~~electronic device manufacturer's registration.]~~ posted on the
21 department's website."



1 SECTION 5. Section 339D-4, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (a), (b), and (c) to read:

4 "(a) Beginning [~~October 1, 2009,~~] January 1, 2014, each
5 electronic device manufacturer shall label all new covered
6 electronic devices [~~to be offered for sale for delivery in this~~
7 ~~State]~~ with a brand, for which the label shall be permanently
8 affixed and readily visible.

9 (b) (1) By January 1, [~~2009,~~] 2014, each electronic device
10 manufacturer of new covered electronic devices offered
11 for sale for delivery in this State or a
12 representative organization of the electronic device
13 manufacturers shall register with the department and
14 pay to the department a registration fee of \$5,000[~~-~~]
15 for each individual manufacturer or \$20,000 for each
16 representative organization. Thereafter, if an
17 electronic device manufacturer has not previously
18 registered[~~-~~] or is not a member of a representative
19 organization, the electronic device manufacturer shall
20 register with the department prior to any offer for
21 sale for delivery in this State of the electronic



1 device manufacturer's new covered electronic
2 devices[-];

3 (2) Each electronic device manufacturer or representative
4 organization who is registered shall submit an annual
5 renewal of its registration with the payment of a
6 registration fee of \$5,000 for each individual
7 manufacturer or \$20,000 for each representative
8 organization, by January 1 of each program year[-];
9 and

10 (3) The registration and each renewal shall include a list
11 of all of the electronic device manufacturer's or
12 representative organization's brands of covered
13 electronic devices and shall be effective on the
14 second day of the succeeding month after receipt by
15 the department of the registration or renewal.

16 (c) Each electronic device manufacturer may develop its
17 own recycling program or may collaborate with other electronic
18 device manufacturers in a representative organization; provided
19 that the program is implemented and fully operational no later
20 than January 1, 2014, and the representative organization is
21 responsible for assessing the costs and collections among its
22 members. By [~~June 1, 2009,~~] October 1, 2013, and annually



1 thereafter, each representative organization and each electronic
2 device manufacturer not participating in a representative
3 organization shall submit a plan to the department to establish,
4 conduct, and manage a program for the collection,
5 transportation, and recycling of its covered electronic devices
6 sold in the State, which shall be subject to the following
7 conditions:

8 (1) The plan shall not permit the charging of a fee at the
9 point of recycling if the covered electronic device is
10 brought by the covered electronic device owner to a
11 central location for recycling; provided that the plan
12 may include a reasonable transportation fee if the
13 electronic device manufacturer or electronic device
14 manufacturer's agent removes the covered electronic
15 device from the owner's premises at the owner's
16 request and if the removal is not in conjunction with
17 delivery of a new electronic device to the owner; and

18 (2) [~~Each electronic device manufacturer may develop its~~
19 ~~own recycling program or may collaborate with other~~
20 ~~electronic device manufacturers, so long as the~~
21 ~~program is implemented and fully operational no later~~
22 ~~than January 1, 2010.] The plan shall include a~~



1 description of the methods for the convenient
2 collection of covered electronic devices at no cost to
3 the owner, except as provided in paragraph (1). The
4 recycling plan shall provide for collection services
5 of covered electronic devices in each county of the
6 State and zip code tabulation areas, as defined by the
7 United States Census Bureau, with a population greater
8 than twenty-five thousand. The recycling plan shall
9 include at least one of the following:

10 (A) Staffed drop-off site;

11 (B) Alternative collection service such as on-site
12 pick-up service; or

13 (C) Collection events held at an easily accessible,
14 central location;

15 (3) Collection services shall be provided, at a minimum,
16 once in each quarter of the year;

17 (4) Plans that contain only a mail-back option shall be
18 prohibited;

19 (5) Plans shall specify the use of only collectors
20 registered, for the purposes of this chapter, with the
21 State; and



1 (6) Plans shall specify the use of recyclers that have
2 achieved and maintained third-party accredited
3 certification from: the Responsible Recycling (R2)
4 Practices Standard, the e-Stewards Standard, or an
5 internationally accredited third-party environmental
6 management standard for the safe and responsible
7 handling of electric devices."

8 2. By amending subsection (e) to read:

9 "(e) By July 1, 2011, and annually thereafter, the
10 department shall publish a ranking of all electronic device
11 manufacturers selling covered electronic devices in the State,
12 based upon the annual total weight of covered electronic devices
13 recycled by each electronic device manufacturer or
14 representative organization in the previous year."

15 3. By amending subsection (g) to read:

16 "(g) The department shall review each electronic device
17 ~~[manufacturer's]~~ recycling plan and, within sixty days of
18 receipt of the plan, shall determine whether the plan complies
19 with this part. If the plan is approved, the department shall
20 notify the electronic device manufacturer or ~~[group of~~
21 ~~electronic device manufacturers.]~~ representative organization.

22 If the plan is rejected, the department shall notify the



1 electronic device manufacturer or [~~group of electronic device~~
2 manufacturers] representative organization and provide the
3 reasons for the plan's rejection. Within thirty days after
4 receipt of the department's rejection, the electronic device
5 manufacturer or [~~group of electronic device manufacturers may~~
6 representative organization shall revise and resubmit the plan
7 to the department for approval."

8 SECTION 6. Section 339D-5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~§~~§339D-5[~~§~~] **Retailer responsibility.** Beginning January
11 1, [~~2010,~~] 2014, retailers shall make available to their
12 customers information on collection services in the State[~~,~~
13 ~~including the department's website and toll-free telephone~~
14 ~~number~~]. [~~Remote~~] Online retailers may include this information
15 in a visible location on their website to fulfill this
16 requirement."

17 SECTION 7. Section 339D-6, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[~~§~~§339D-6[~~§~~] **Department responsibility.** [~~Beginning~~] By
20 January 1, [~~2010,~~] 2014, the department shall post and maintain
21 [~~and update a website and a toll-free number with current~~
22 ~~information on where covered entities can return covered~~



1 ~~electronic devices for recycling.]~~ information about recycling
2 covered electronic devices on its website."

3 SECTION 8. Section 339D-7.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~+~~§339D-7.5[~~+~~] **Manufacturer and agent responsibilities;**
6 **regulatory compliance.** Each covered electronic device
7 manufacturer [~~and television manufacturer]~~ or representative
8 organization shall be responsible for ensuring that the
9 manufacturer and its agents follow all federal, state, and local
10 regulations when collecting, transporting, and recycling covered
11 electronic devices [~~or covered televisions, and adopt~~
12 ~~environmentally sound recycling practices for the covered~~
13 ~~electronic devices or covered televisions]~~."

14 SECTION 9. Section 339D-8, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§339D-8 **Enforcement.** [~~(a) The department may conduct~~
17 ~~audits and inspections to determine compliance under this~~
18 ~~chapter. Except as provided in subsection (c), the department~~
19 ~~and the attorney general shall be empowered to enforce this~~
20 ~~chapter and take necessary action against any electronic device~~
21 ~~or television manufacturer or retailer for failure to comply~~
22 ~~with this chapter or rules adopted thereunder.~~



1 ~~(b) The attorney general may file suit in the name of the~~
2 ~~State to enjoin an activity related to the sale of covered~~
3 ~~electronic devices or covered televisions in violation of this~~
4 ~~chapter.~~

5 ~~(c) The department shall issue a warning notice to a~~
6 ~~person for the person's first violation of this chapter. The~~
7 ~~person shall comply with this chapter within sixty days of the~~
8 ~~date the warning notice was issued or be subject to the~~
9 ~~penalties provided by law or rule, including, but not limited~~
10 ~~to, penalties set forth in subsections (d) through (g). A~~
11 ~~retailer that receives a warning notice from the department for~~
12 ~~a violation of section 339D-3(a) or 339D-24(a) shall submit~~
13 ~~proof to the department, within sixty days from the date the~~
14 ~~warning notice was issued, that its inventory of covered~~
15 ~~electronic devices or covered televisions offered for sale is in~~
16 ~~compliance with this chapter.~~

17 ~~(d) Any retailer who sells or offers for sale an unlabeled~~
18 ~~electronic device or unlabeled covered television in violation~~
19 ~~of section 339D-3 or 339D-24, respectively, or any electronic~~
20 ~~device or television manufacturer that fails to comply with any~~
21 ~~provision of section 339D-4 or 339D-23, respectively, may be~~
22 ~~assessed a penalty of up to \$10,000 for the first violation and~~



1 ~~up to \$25,000 for the second and each subsequent violation, in~~
2 ~~addition to any additional penalties required or imposed~~
3 ~~pursuant to this chapter.~~

4 ~~(c) Except as provided in subsection (d), any person who~~
5 ~~violates any requirement of this chapter may be assessed a~~
6 ~~penalty of up to \$1,000 for the first violation and up to \$2,000~~
7 ~~for the second and each subsequent violation, in addition to any~~
8 ~~additional penalties required or imposed pursuant to this~~
9 ~~chapter.~~

10 ~~(f) The department shall determine additional penalties~~
11 ~~based on adverse impact to the environment, unfair competitive~~
12 ~~advantage, and other considerations that the department deems~~
13 ~~appropriate.~~

14 ~~(g) If a covered television manufacturer fails to recycle~~
15 ~~its market share allocation, the department shall impose a~~
16 ~~penalty of 50 cents per pound for each pound not recycled.] (a)~~
17 If the director determines that any person has violated or is
18 violating any provision of this chapter, any rule adopted
19 pursuant to chapter 91, or any term or condition of a
20 certification or permit issued pursuant to this chapter, the
21 director may do any one or more of the following:



- 1 (1) Issue a field citation assessing an administrative
2 penalty and ordering corrective action immediately or
3 within a specified time;
- 4 (2) Issue an order assessing an administrative penalty for
5 any past or current violation;
- 6 (3) Require compliance immediately or within a specified
7 time; or
- 8 (4) Commence a civil action in circuit court in which the
9 violation occurred or where the person resides or
10 maintains the person's principal place of business for
11 appropriate relief, including a temporary,
12 preliminary, or permanent injunction, the imposition
13 and collection of civil penalties, or other relief.
- 14 (b) Any order issued pursuant to this section may include
15 a suspension, modification, or revocation of a certification or
16 permit issued under this chapter, and shall state with
17 reasonable specificity the nature of the violation.
- 18 (c) Any order issued under this chapter shall become
19 final, unless not later than twenty days after the notice of
20 order is served, the person or persons named therein request in
21 writing a hearing before the director. Any penalty imposed
22 under this chapter shall become due and payable twenty days



1 after the notice of order is served unless the person or persons
2 named therein request in writing a hearing before the director.
3 Whenever a hearing is requested on any penalty imposed under
4 this chapter, the penalty shall become due and payable only upon
5 completion of all review proceedings and the issuance of a final
6 order confirming the penalty in whole or in part. Upon request
7 for a hearing, the director shall require that the alleged
8 violator appear before the director for a hearing at a time and
9 place specified in the notice and answer the charges.

10 (d) Any hearing conducted under this section shall be
11 conducted as a contested case under chapter 91. If, after a
12 hearing under this section, the director finds that a violation
13 or violations have occurred, the director shall:

14 (1) Affirm or modify any penalties imposed or shall modify
15 or affirm the order previously issued; or

16 (2) Issue an appropriate order or orders for the
17 prevention, abatement, or control of the violation
18 involved, or for the taking of any other corrective
19 action as may be appropriate. If, after a hearing on
20 an order or penalty contained in a notice, the
21 director finds that no violation has occurred or is
22 occurring, the director shall rescind the order or



1 penalty. Any order issued after a hearing may
2 prescribe the date or dates by which the violation
3 shall cease and may prescribe timetables for necessary
4 action in preventing, abating, or controlling the
5 violation.

6 (e) If the amount of any penalty is not paid to the
7 department within thirty days after the penalty becomes due and
8 payable, the director may institute a civil action in the name
9 of the State to collect the administrative penalty which shall
10 be a government realization. In any proceeding to collect the
11 administrative penalty imposed, the director need only show
12 that:

13 (1) Notice was given;

14 (2) A hearing was held or the time granted for requesting
15 a hearing expired without a request for a hearing;

16 (3) The administrative penalty was imposed; and

17 (4) The penalty remains unpaid.

18 (f) In connection with any hearing held pursuant to this
19 section, the director shall have the power to subpoena the
20 attendance of witnesses and the production of evidence on behalf
21 of all parties."



1 SECTION 10. Section 339D-9, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§339D-9 [Administrative penalties; fees. (a) In addition~~
4 ~~to any other administrative or judicial remedy provided by this~~
5 ~~chapter or by rules adopted under this chapter for a violation~~
6 ~~thereof, the department is authorized to impose by order~~
7 ~~administrative penalties and is further authorized to set,~~
8 ~~charge, and collect administrative fines and to recover~~
9 ~~administrative fees and costs, including attorney's fees and~~
10 ~~costs, or to bring legal action to recover administrative fines~~
11 ~~and fees and costs, including attorney's fees and costs.~~

12 ~~(b) Notwithstanding subsection (a), the department shall~~
13 ~~not have the authority to assess any fees, including an advanced~~
14 ~~recycling fee, registration fee, or other fee, on consumers,~~
15 ~~television manufacturers, or retailers for recovery of covered~~
16 ~~televisions except those noted in sections 339D-4 and 339D-22.]~~

17 Penalties. (a) Any person who intentionally, knowingly, or
18 negligently violates any provision of this chapter, or any rule
19 adopted pursuant to this chapter, shall be fined not more than
20 \$10,000 for each separate offense. Each day of each violation
21 shall constitute a separate offense. Any action taken to impose



1 or collect the penalty imposed pursuant to this section shall be
2 made through administrative, civil, or criminal procedures.

3 (b) If an electronic device manufacturer or representative
4 organization fails to recycle its goal amount pursuant to
5 section 339D-A(c), the department shall impose a penalty of up
6 to one dollar per pound for each pound of the goal amount not
7 recycled."

8 SECTION 11. Section 339D-10, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) The electronic device recycling fund shall be
11 administered by the department of health. Moneys in the fund
12 shall be expended by the director [~~solely~~] for the purpose of
13 implementing and enforcing this chapter[~~-~~]; provided that a
14 portion of the funds shall be distributed annually to the
15 counties to assist in implementing and managing the program."

16 SECTION 12. Section 480-11, Hawaii Revised Statutes, is
17 amended by amending subsection (d) to read as follows:

- 18 "(d) This chapter shall not apply to:
- 19 (1) Any provider agencies or donors under part XVII of
20 chapter 346;
 - 21 (2) Any provider agency or donor method or act that
22 complies with part XVII of chapter 346; [~~or~~]



- 1 (3) Any cooperation or agreement authorized pursuant to
2 rule under part XVII of chapter 346[~~-~~]; or
3 (4) Any electronic device manufacturer belonging to a
4 representative organization under chapter 339D,
5 provided that the membership or participation in the
6 representative organization is voluntary."

7 SECTION 13. Section 339D-11, Hawaii Revised Statutes, is
8 repealed.

9 [~~"§339D-11 Financial and proprietary information; report.~~

10 ~~(a) Notwithstanding any law to the contrary, financial or~~
11 ~~proprietary information, including trade secrets, commercial~~
12 ~~information, and business plans, submitted to the department~~
13 ~~under this chapter is confidential and is exempt from public~~
14 ~~disclosure to the extent permitted by chapter 92F.~~

15 ~~(b) The department shall compile the information submitted~~
16 ~~by covered television manufacturers and issue a report to the~~
17 ~~legislature no later than April 1, 2012, and annually each year~~
18 ~~thereafter."]~~

19 SECTION 14. Section 339D-12, Hawaii Revised Statutes, is
20 repealed.

21 [~~"§339D-12 Federal preemption. (a) Part II of this~~
22 ~~chapter shall be deemed repealed if a federal law or a~~



1 ~~combination of federal laws takes effect that establishes a~~
2 ~~national program for the collection and recycling of covered~~
3 ~~electronic devices that substantially meets the intent of part~~
4 ~~II of this chapter, including the creation of a financing~~
5 ~~mechanism for collection, transportation, and recycling of all~~
6 ~~covered electronic devices from covered entities in the United~~
7 ~~States.~~

8 ~~(b) Part IV of this chapter shall be deemed repealed if a~~
9 ~~federal law or a combination of federal laws takes effect that~~
10 ~~establishes a national program for the recycling of covered~~
11 ~~televisions that substantially meets the intent of part IV of~~
12 ~~this chapter."]~~

13 SECTION 15. Chapter 339D, part IV, Hawaii Revised
14 Statutes, is repealed.

15 SECTION 16. This Act does not affect rights and duties
16 that matured, penalties that were incurred, and proceedings that
17 were begun before its effective date.

18 SECTION 17. In codifying the new sections added by
19 sections 1 and 2 of this Act, the revisor of statutes shall
20 substitute appropriate section numbers for the letters used in
21 designating the new sections in this Act.



1 SECTION 18. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 19. This Act shall take effect on July 1, 2050.



Report Title:

Recycling; Electric Devices

Description:

Amends and expands the Electronic Waste and Television Recycling program. Effective date is 7/1/50. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

