

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 1459**

# **STATE OF NEW JERSEY**

DATED: MAY 21, 2012

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1459 (1R).

This bill amends the “Electronic Waste Management Act,” P.L.2007, c.347 (C.13:1E-99.94 et seq.) by revising its penalty provisions, limiting the credit-trading program, reallocating the funds collected under registration fees, authorizing enforcement of the act by certified local health agencies, and removing audit and public hearing requirements under current law.

Under the bill, the Department of Environmental Protection (DEP) will use the registration fees from manufacturers to support the administration of the program. In addition, the bill exempts manufacturers who sell less than 100 televisions or less than 100 covered electronic devices in the previous program year from paying the \$5,000 registration or registration renewal fee. The bill requires a manufacturer who sells 100 or more units after being exempted from fees to pay the registration fee or the registration renewal fee for any year in which 100 or more units are sold.

Current law provides that a person in violation of the act may be subject to a civil penalty of not less than \$500 nor more than \$1,000 for each offense, and requires the DEP to seek relief in Superior Court to enforce the statute. This bill changes the penalty provision to authorize the DEP to issue administrative orders, levy administrative penalties, bring a civil action seeking a court order, and bring an action for a civil penalty to enforce the act. The bill also authorizes the Commissioner of DEP to assess a civil administrative penalty not to exceed \$50,000, for certain violations of the act, such as failure to register or submit or implement a plan. For other violations, the commissioner is authorized to assess a civil administrative penalty of not less than \$500 nor more than \$1,000 for each violation. In addition, the bill authorizes a court to impose a civil penalty for violations of the act of up to \$50,000 per day. Further, the bill authorizes certified local health agencies to enforce the act.

This bill limits the provision of law allowing manufacturers that collect covered electronic devices in excess of their obligation to either sell credits to other manufacturers or apply the credits to the next

year's obligation by providing that no more than 25 percent of a manufacturer's obligation for any program year may be met with credits generated in a prior program year. The bill further provides that no manufacturer or group of manufacturers, as the case may be, may cease implementing its plan during any program year by using credits.

The bill also allows the sale, or offer for sale, of new electronic devices that exceed the European Union heavy metal maximum concentration value on or after the date of manufacture if the use of the heavy metal is necessary to comply with consumer, health, or safety requirements imposed by the Underwriters Laboratories or federal or State law. The bill also allows a nominal fee to be charged to a consumer for the collection, transportation, or recycling of a covered electronic device if a financial incentive, such as a coupon, of equal or greater value is provided.

The bill deletes provisions that require: (1) the used television recovery and recycling program to be fully audited by an independent, certified public accountant each calendar year; and (2) the DEP to hold a public hearing every one to two years to review the covered electronic device recycling goals and registration fees.

The bill prohibits a solid waste facility from knowingly accepting for disposal any truckload or roll-off container of solid waste containing a visible quantity of covered electronic devices, or any components or assemblies thereof. However, the owner or operator of a solid waste facility will not be found in violation of this provision if a good faith effort is made toward compliance, a sign is posted at the facility stating that covered electronic devices shall not be accepted, and all persons authorized to deposit solid waste at the facility have been notified in writing that covered electronic devices shall not be accepted. The bill provides that knowingly disposing of a used covered electronic device, or any of the components or subassemblies thereof, as solid waste, constitute a violation of the act and will be subject to the penalty provisions thereof.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill would have minimal or no fiscal impact on the Department of Environmental Protection (DEP) and certified local health agencies. As the bill provides that all registration fees are to be used by the DEP to administer the act, some or most of the program costs incurred by the DEP could be offset depending on the amount of fees collected. Therefore, the OLS does not believe that any significant added expenditure by the department would be necessary. According to information informally provided by the Executive, some costs currently incurred by the DEP could decrease or be eliminated due to provisions in the bill that streamline the enforcement and penalty requirements, and that remove the auditing and public hearing

requirements of the act. The OLS notes that it is possible the State could receive increased revenue from the higher penalties imposed for violations that the bill provides.