April 8, 2009

ENGROSSED
HOUSE BILL No. 1589

DIGEST OF HB 1589 (Updated April 6, 2009 3:47 pm - DI 52)

Citations Affected: IC 4-23; IC 13-11; IC 13-13; IC 13-20.5.

Synopsis: Electronic waste. Requires manufacturers of video display devices (VDDs) to recycle covered electronic devices (CEDs) from households, public schools, and small businesses (covered entities) in the amount of at least 60% of the total weight of VDDs sold by the manufacturer to households during the most recent twelve month period for which national sales data is available. Provides that VDDs generally include televisions and computer monitors that are marketed to covered entities, but establishes various exceptions. Provides that a program year for the electronic waste recycling program begins April 1 and ends the following March 31, and that the first program year begins April 1, 2010. Requires registration with the department of environmental management (IDEM) for each program year by: (1) manufacturers of VDDs; and (2) collectors and recyclers of CEDs. Requires manufacturers to submit to IDEM a compliance plan at the time of registration. Excludes from the definition of "collector" a service that accepts packages and delivers them to collectors or recyclers under a manufacturer's mailback program. To operate as a

(Continued next page)

Effective: July 1, 2009.

Sullivan, Avery, Neese, Lutz

(SENATE SPONSORS — GARD, ERRINGTON, CHARBONNEAU, RANDOLPH)

January 16, 2009, read first time and referred to Committee on Environmental Affairs.
February 16, 2009, amended, reported — Do Pass.
February 19, 2009, read second time, ordered engrossed. Engrossed.
February 25, 2009, read third time, passed. Yeas 99, nays 0.

SENATE ACTION

March 3, 2009, read first time and referred to Committee on Energy and Environmental Affairs.
April 7, 2009, amended, reported favorably — Do Pass.

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Digest Continued

collector or as a recycler, requires that a person must submit to IDEM the registration currently required under rules of the solid waste management board and must otherwise comply with those rules. Allows IDEM to revoke the registration of a collector or recycler that violates those rules. Requires a recycler to annually certify that the recycler has complied with those rules and to annually report to IDEM the total weight in pounds of CEDs taken for final disposal during the immediately preceding year. Provides that a manufacturer must pay to IDEM a registration fee of $5,000 for the initial program year and $2,500 for each program year thereafter. For program years ending in 2013 or later imposes a variable recycling fee (VRF) on manufacturers that fail to meet the 60% goal. In the determination of the amount of the VRF: (1) allows the application of recycling credits in the amount of 25% of the amount by which a manufacturer exceeded the recycling goal in the preceding three years; (2) applies favorable weighting for CEDs recycled in Indiana or recycled from covered entities not located in a metropolitan statistical area; (3) adjusts for higher fees for manufacturers with lower recycling performance; (4) requires IDEM to bill the fee to a manufacturer not later than September 1; and (5) permits a manufacturer to petition the Indiana recycling market development board for relief from the fee upon showing of good cause. Establishes reporting requirements for IDEM, manufacturers, recyclers, and collectors. Prohibits governmental entities from requiring covered entities to use public facilities to recycle CEDs to the exclusion of other available recycling programs. Requires the department of administration to ensure that acquisitions of VDDs by state agencies comply with the electronic waste recycling program, and allows the department to void state contracts that violate the program in certain circumstances. Requires retailers to provide certain recycling information to households. Provides that the registration fee does not apply to a manufacturer that produces fewer than 100 VDDs for sale to households during a year. Requires the deposit of: (1) registration fee revenue in the electronic waste fund, which is established to implement the electronic waste recycling program; and (2) VRF revenue in the Indiana recycling promotion and assistance fund. Requires IDEM to provide refunds to manufacturers to the extent that registration fee revenue exceeds the amount needed to administer the program. Prohibits mixing by covered entities of certain electronic devices with municipal waste that is intended for disposal after 2010 at a landfill or by burning or incineration. Removes a definition that is never used. Provides that a covered entity that violates the electronic waste recycling law is not subject to criminal or civil action or penalty or any other sanction under state law. Requires the environmental quality service council to study in 2012 certain issues concerning the electronic waste recycling program.

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April 8, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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ENGROSSED
HOUSE BILL No. 1589

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-23-5.5-6, AS AMENDED BY P.L.204-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The board shall do the following:

(1) Adopt procedures for the regulation of its affairs and the conduct of its business.

(2) Meet at the offices of the division on call of:

(A) the lieutenant governor or the lieutenant governor's designee; or

(B) the commissioner of the department of environmental management or the commissioner's designee;

at least once each calendar quarter. The meetings shall be upon ten (10) days written notification, shall be open to the public, and shall have official minutes recorded for public scrutiny.

(3) Report annually in an electronic format under IC 5-14-6 to the legislative council the projects in which it has participated and is currently participating with a complete list of expenditures for those projects.

(4) Annually prepare an administrative budget for review by the budget agency and the budget committee.

(5) Keep proper records of accounts and make an annual report of its condition to the state board of accounts.

(6) Receive petitions and make determinations under IC 13-20.5-2-2.

(b) The board shall consider projects involving the creation of the following:

(1) Markets for products made from recycled materials.

(2) New products made from recycled materials.

(c) The board may promote, fund, and encourage programs facilitating the development and implementation of waste reduction, reuse, and recycling in Indiana.

SECTION 2. IC 4-23-5.5-14, AS AMENDED BY P.L.170-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) The Indiana recycling promotion and assistance fund is established. The purpose of the fund is to promote and assist recycling throughout Indiana by focusing economic development efforts on businesses and projects involving recycling. The fund shall be administered by the board.

(b) Sources of money for the fund consist of the following:

(1) Appropriations from the general assembly.

(2) Repayment proceeds of loans made from the fund.

(3) Gifts and donations.

(4) Money from the solid waste management fund.

(5) Variable recycling fee revenue deposited under IC 13-20.5-2-1.

(c) Money remaining in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) The board may use money in the fund to make loans to assist:

(1) persons in establishing new recycling businesses;

(2) in the expansion of existing recycling businesses; and

(3) manufacturers in retrofitting equipment necessary to reuse or recycle secondary materials.

(e) The board shall establish loan:

(1) amounts;

(2) terms; and

(3) interest rates.

(f) The board may use money in the fund to make grants for research and development projects involving recycling. The board shall establish amounts for grants.

(g) A person, business, or manufacturer that wants a grant or loan

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from the fund must file an application with the board.

(h) The board shall establish criteria for awarding grants and loans under this section.

(i) The board may transfer money in the fund to the state solid waste management fund established by IC 13-20-22-2 for use by the department of environmental management to make payments under IC 13-20-17.7-6.

SECTION 3. IC 13-11-2-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23.5. "Cathode ray tube", for purposes of this chapter, means a vacuum tube or picture tube designed to convert an electronic signal into a visual image.**

SECTION 4. IC 13-11-2-31.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 31.1. (a) "Collection", for purposes of IC 13-20.5, means the receipt of covered electronic devices from covered entities.**

(b) The term includes all collection activities up to the time the covered electronic devices are delivered to a recycler.

SECTION 5. IC 13-11-2-31.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 31.2. (a) "Collector", for purposes of this chapter and IC 13-20.5, means a public or private entity:**

(1) that:

(A) receives covered electronic devices from covered entities; and

(B) arranges for the delivery of the covered electronic devices to a recycler; or

(2) that collects covered electronic devices directly from covered entities, including curbside collection.

(b) The term does not include:

(1) the United States Postal Service; or

(2) any other parcel service;

that accepts packages and delivers them to collectors or recyclers under a manufacturer's mailback program.

SECTION 6. IC 13-11-2-38.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 38.1. (a) "Computer", for purposes of this chapter and IC 13-20.5, means an electronic, a magnetic, an optical, an electrochemical, or other high speed data processing device performing logical, arithmetic, or storage**

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functions.

(b) The term does not include the following:

(1) An automated typewriter or typesetter.

(2) A portable handheld calculator or device.

SECTION 7. IC 13-11-2-38.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 38.2. (a) "Computer monitor", for purposes of this chapter and IC 13-20.5, means an electronic device that is:**

(1) a cathode ray tube or flat panel display; and

(2) primarily intended to display information from a central processing unit or the Internet.

(b) The term includes a laptop computer.

SECTION 8. IC 13-11-2-47.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 47.5. "Covered electronic device", for purposes of this chapter and IC 13-20.5, means a computer, peripheral, facsimile machine, DVD player, video cassette recorder, or video display device that is sold to a covered entity by means of retail, wholesale, or electronic commerce.**

SECTION 9. IC 13-11-2-47.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 47.7. "Covered entity", for purposes of this chapter and IC 13-20.5, means the following:**

(1) A household.

(2) A public school.

(3) A small business.

SECTION 10. IC 13-11-2-61.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 61.3. "Dwelling", for purposes of this chapter, means a building, a structure, or another enclosed space that is:**

(1) permanent or temporary;

(2) movable or fixed; and

(3) an individual's home or place of lodging.

SECTION 11. IC 13-11-2-103.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 103.9. "Household", for purposes of section 47.7 of this chapter and IC 13-20.5, means the occupants of a dwelling located in Indiana who use a video display device at the dwelling primarily for personal use or home office use.**

SECTION 12. IC 13-11-2-116, AS AMENDED BY P.L.131-2006,

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SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 116. (a) "Landfill", for purposes of IC 13-20-2, ~~and~~ IC 13-20-24, **and IC 13-20.5,** means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

(b) "Landfill", for purposes of section 114.2 of this chapter and IC 13-20-11, means a facility operated under a permit issued under IC 13-15-3 or IC 13-7-10 (before its repeal) at which solid waste is disposed of by placement on or under the surface of the ground.

(c) "Landfill", for purposes of section 82 of this chapter and IC 13-21, means a solid waste disposal facility at which solid waste is deposited on or in the ground as an intended place of final location. The term does not include the following:

(1) A site that is devoted solely to receiving one (1) or more of the following:

(A) Fill dirt.

(B) Vegetative matter subject to disposal as a result of:

(i) landscaping;

(ii) yard maintenance;

(iii) land clearing; or

(iv) any combination of activities referred to in this clause.

(2) A facility receiving waste that is regulated under the following:

(A) IC 13-22-1 through IC 13-22-8.

(B) IC 13-22-13 through IC 13-22-14.

SECTION 13. IC 13-11-2-126 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 126. (a) "Manufacturer", for purposes of IC 13-20-16, means a person who is engaged in the business of making lead acid batteries:

(1) in Indiana; or

(2) for sale in Indiana.

(b) "Manufacturer", for purposes of IC 13-27.5, means a manufacturer in Indiana operating under standard industrial classification codes twenty (20) through thirty-nine (39) in the Standard Industrial Classification Manual of the United States Office of Management and Budget.

~~(c) "Manufacturer", for purposes of IC 13-20-17.5, means any individual, corporation, limited liability company, partnership, trust, estate, or unincorporated association that:~~

~~(1) produces in the United States a mercury-added product that does not consist of multiple components produced by separate entities;~~

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~~(2) is the last entity to produce or assemble in the United States a mercury-added product that consists of multiple components produced by separate entities; or~~

~~(3) domestically distributes a mercury-added product produced in a foreign country.~~

(c) "Manufacturer", for purposes of sections 179.9, 180.1, 195.7, and 245.4 of this chapter and IC 13-20.5, means a person that:

(1) manufactures video display devices to be sold under the person's own brand or a brand the person licenses as identified by the person's own brand label or the brand label the person licenses;

(2) sells video display devices manufactured by others under the person's own brand or a brand the person licenses as identified by the person's own brand label or the brand label the person licenses; or

(3) assumes the responsibilities and obligations of a manufacturer under IC 13-20.5.

SECTION 14. IC 13-11-2-133 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 133. (a) "Municipal waste", for purposes of:

(1) IC 13-20-4;

(2) IC 13-20-6;

(3) IC 13-20-21;

(4) IC 13-20-23;

(5) IC 13-20.5-10;

~~(5)~~ **(6)** IC 13-22-1 through IC 13-22-8; and

~~(6)~~ **(7)** IC 13-22-13 through IC 13-22-14;

means any garbage, refuse, industrial lunchroom or office waste, and other similar material resulting from the operation of residential, municipal, commercial, or institutional establishments and community activities.

(b) The term does not include the following:

(1) Hazardous waste regulated under:

(A) IC 13-22-1 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14; or

(B) the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as in effect on January 1, 1990.

(2) Infectious waste (as defined in IC 16-41-16-4).

(3) Wastes that result from the combustion of coal and that are referred to in IC 13-19-3-3.

(4) Materials that are being transported to a facility for reprocessing or reuse.

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(c) As used in subsection (b)(4), "reprocessing or reuse" does not include either of the following:

(1) Incineration.

(2) Placement in a landfill.

SECTION 15. IC 13-11-2-156.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 156.5. "Peripheral", for purposes of this chapter, means a keyboard, a printer, or any other device that:**

(1) is sold exclusively for external use with a computer; and

(2) provides input or output into or from a computer.

SECTION 16. IC 13-11-2-172.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 172.1. "Program year", for purposes of this chapter and IC 13-20.5, means the period:**

(1) beginning April 1 in a year; and

(2) ending March 31 of the following year.

SECTION 17. IC 13-11-2-176.5, AS AMENDED BY P.L.1-2005, SECTION 142, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 176.5. **(a)** "Public school", for purposes of IC 13-20-17.5, has the meaning set forth in IC 20-18-2-15.

(b) "Public school", for purposes of section 47.7 of this chapter means:

(1) a public school (as defined in IC 20-18-2-15); and

(2) a charter school (as defined in IC 20-24-1-4).

SECTION 18. IC 13-11-2-179.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 179.9. (a) "Recycler", for purposes of sections 31.1 and 31.2 of this chapter and IC 13-20.5, means an individual or public or private entity that accepts covered electronic devices from covered entities and collectors for the purpose of recycling.**

(b) The term does not include a manufacturer that accepts products for refurbishment or repair.

SECTION 19. IC 13-11-2-180 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 180. **(a)** "Recycling", for purposes of IC 13-20-17.5 and IC 13-21, means a process by which materials that would otherwise become solid waste are:

(1) collected;

(2) separated or processed; and

(3) converted into materials or products for reuse or sale.

(b) "Recycling", for purposes of section 179.9 of this chapter

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and IC 13-20.5, means the process of collecting and preparing video display devices or covered electronic devices for use in manufacturing processes or for recovery of useable materials followed by delivery of the materials for use. The term does not include the following:

(1) Destruction of recyclable materials by incineration or another process.

(2) Land disposal of recyclable materials.

(3) Reuse, repair, or any other process through which video display devices or covered electronic devices are returned to use for covered entities in their original form.

SECTION 20. IC 13-11-2-180.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 180.1. "Recycling credits", for purposes of IC 13-20.5, means the product of:**

(1) the remainder for a manufacturer's program year of:

(A) the amount of covered electronic devices the manufacturer recycled, or for which the manufacturer arranged for recycling; minus

(B) the amount the manufacturer is required to recycle or arrange for recycling determined under IC 13-20.5-4-1; multiplied by

(2) twenty-five percent (25%).

SECTION 21. IC 13-11-2-194 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 194. (a) "Retailer", for purposes of IC 13-20-14, means a person engaged in the business of selling new tires at retail in Indiana.

(b) "Retailer", for purposes of IC 13-20-16, means a person engaged in the business of selling lead acid batteries at retail in Indiana.

(c) "Retailer", for purposes of section 195.7 of this chapter and IC 13-20.5, means a person that sells, rents, or leases, through sales outlets, catalogs, or the Internet, a video display device to a covered entity and not for resale in any form.

SECTION 22. IC 13-11-2-195.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 195.7. (a) "Sale" or "sell", for purposes of sections 126(c) and 194(c) of this chapter and IC 13-20.5, means a transfer for consideration of title or of the right to use by a:**

(1) lease or sales contract, including transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means either inside or outside Indiana; and

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(2) person that conducts the transaction and controls the delivery of a video display device to a consumer in Indiana.

(b) The term does not include a manufacturer's or distributor's wholesale transaction with a distributor or retailer.

SECTION 23. IC 13-11-2-203.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 203.5. (a) Except as provided in subsection (b), "small business", for purposes of section 47.7 of this chapter, means a business that satisfies all the following:**

(1) The business is independently owned and operated.

(2) The principal office of the business is located in Indiana.

(3) The business satisfies either of the following:

(A) The business has not more than:

(i) one hundred (100) employees; and

(ii) average annual gross receipts of ten million dollars ($10,000,000).

(B) If the business is a manufacturing business, the business does not have more than one hundred (100) employees.

(b) "Small business" does not include a business subject to electronic waste regulation under 329 IAC 16-3-1.

SECTION 24. IC 13-11-2-230.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 230.1. "Television", for purposes of this chapter and IC 13-20.5, means an electronic device that is:**

(1) a cathode ray tube or flat panel display; and

(2) primarily intended to receive:

(A) video programming via broadcast, cable, or satellite transmission; or

(B) video from surveillance or other similar cameras.

SECTION 25. IC 13-11-2-245.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 245.4. (a) "Video display device", for purposes of this chapter and IC 13-20.5, means a television or computer monitor, including a laptop computer, that:**

(1) contains a cathode ray tube or flat panel screen with a screen size that is greater than four (4) inches measured diagonally; and

(2) is marketed by a manufacturer for use by covered entities.

(b) The term does not include the following:

(1) A video display device that is part of a motor vehicle or any component part of a motor vehicle assembled by, or for,

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a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

(2) A video display device, including a touch screen display, that is functionally or physically part of or connected to a system or equipment designed and intended for use in:

(A) an industrial;

(B) a commercial, including retail;

(C) a library checkout;

(D) a traffic control;

(E) a security, sensing, monitoring, or counterterrorism;

(F) a border control;

(G) a medical; or

(H) a governmental or research and development;

setting, including diagnostic, monitoring, or control equipment.

(3) A video display device that is contained within any of the following:

(A) Clothes washer or dryer.

(B) Refrigerator or refrigerator and freezer.

(C) Microwave oven or conventional oven or range.

(D) Dishwasher.

(E) Room air conditioner, dehumidifier, or air purifier.

(4) Either of the following that does not contain a video display area greater than nine (9) inches measured diagonally:

(A) A telephone.

(B) A device capable of using commercial mobile radio service (as defined in 47 CFR 20.3).

SECTION 26. IC 13-13-7-9, AS ADDED BY P.L.12-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. The council shall do the following:

(1) Study:

(A) issues designated by the legislative council; **and**

(B) the following in 2012:

(i) The effectiveness of the electronic waste provisions of IC 13-20.5.

(ii) Appropriate guidelines for the Indiana recycling market development board for determining under IC 13-20.5-2-2 whether a manufacturer has made good faith progress to achieve substantial compliance with IC 13-20.5.

(2) Advise the commissioner on policy issues decided on by the

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council.

(3) Review the mission and goals of the department and evaluate the implementation of the mission.

(4) Serve as a council of the general assembly to evaluate:

(A) resources and structural capabilities of the department to meet the department's priorities; and

(B) program requirements and resource requirements for the department.

(5) Serve as a forum for citizens, the regulated community, and legislators to discuss broad policy directions.

(6) Submit a final report to the legislative council, in an electronic format under IC 5-14-6, that contains at least the following:

(A) An outline of activities of the council.

(B) Recommendations for department action.

(C) Recommendations for legislative action.

SECTION 27. IC 13-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 20.5. ELECTRONIC WASTE

Chapter 1. Registration Programs

Sec. 1. (a) A manufacturer of video display devices sold or offered for sale to households as of January 1, 2010, shall submit a registration to the department not later than:

(1) April 1, 2010, for the program year that begins on April 1, 2010; and

(2) each immediately succeeding April 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that April 1.

(b) A manufacturer that begins to sell or offer for sale video display devices to households after 2009 and before April 1, 2010, shall submit a registration to the department not later than:

(1) April 20, 2010, for the program year that begins on April 1, 2010; and

(2) each immediately succeeding April 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that April 1.

(c) A manufacturer that begins to sell or offer for sale video display devices to households after March 31, 2010, shall submit a registration to the department not later than:

(1) twenty (20) days after the date the manufacturer begins to

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sell or offer for sale the video display devices for the program year in which the manufacturer begins to sell or offer for sale the video display devices; and

(2) each immediately succeeding April 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that April 1.

(d) A registration submitted under this section must include the following:

(1) A list of the brands of video display devices offered for sale in Indiana by the manufacturer, regardless of whether the manufacturer owns or licenses the brand.

(2) The name, address, and contact information of a person responsible for ensuring compliance with this article. The department shall post the contact information provided by each manufacturer on an Internet web site.

(3) A certification that the manufacturer or the manufacturer's agent has complied and will continue to comply with the requirements of this article.

(4) An estimate based on national sales data of the total weight in pounds of the manufacturer's video display devices sold to households during the most recent twelve (12) months:

(A) that precede the date of registration; and

(B) for which that data is available.

(5) A demonstration of how the manufacturer plans in the program year for which the registration is submitted to meet the recycling goal stated in IC 13-20.5-4-1.

(6) A statement that discloses whether:

(A) any video display devices sold by the manufacturer to households exceed the maximum concentration values established:

(i) for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (pbbs), and polybrominated diphenyl ethers (pbdes); and

(ii) under the directive restricting the use of certain hazardous substances in electrical and electronic equipment (RoHS Directive) 2002/95/EC of the European Parliament and Council, as amended; or

(B) the manufacturer has received an exemption from any of the maximum concentration values under the RoHS Directive that has been approved and published by the European Commission.

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(e) A manufacturer shall update the manufacturer's registration under this section not more than ten (10) days after the date the manufacturer changes the brand or brands of video display devices the manufacturer sells or offers for sale to households.

Sec. 2. After 2009, a manufacturer may not sell, offer for sale, or deliver to a retailer for subsequent sale a new video display device unless:

(1) the video display device is labeled with the manufacturer's brand that is permanently affixed and readily visible; and

(2) the manufacturer has submitted a registration to the department under section 1 of this chapter.

Sec. 3. (a) A registration received from a manufacturer by the department under this chapter is, except as provided in subsection (b), effective for the program year for which the registration is submitted under section 1 of this chapter.

(b) The department shall review each registration and notify a manufacturer of any information required by this chapter that is omitted from the manufacturer's registration. Not more than thirty (30) days after the date a manufacturer receives notification from the department concerning incomplete information in the manufacturer's registration, the manufacturer shall submit a revised registration that includes the information required by the department. A registration received from a manufacturer by the department under this subsection is, unless the manufacturer receives a second or subsequent notification from the department concerning incomplete information, effective for the program year for which the registration is submitted under section 1 of this chapter.

(c) The department shall maintain on an Internet web site the names of manufacturers and the manufacturers' brands listed in registrations submitted to the department. The department shall update the Internet web site information promptly upon receipt of a new or updated registration. The Internet web site must contain prominent language stating that:

(1) this article is directed at video display devices used by households; and

(2) the manufacturers' brands list is not a list of manufacturers qualified to sell to industrial, commercial, or other markets identified as exempt from the requirements of this article.

Sec. 4. (a) After 2009, a person may not operate as a collector of covered electronic devices from covered entities unless the person:

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(1) has submitted to the department a completed registration form as required by 329 IAC 16-5-1; and

(2) otherwise complies with 329 IAC 16.

(b) A registration submitted under this section is:

(1) effective upon receipt by the department; and

(2) valid for one (1) year from the date the registration is submitted to the department.

Sec. 5. (a) After 2009, a person may not recycle covered electronic devices generated by covered entities unless the person:

(1) has submitted to the department a completed registration form as required by 329 IAC 16-5-1; and

(2) otherwise complies with 329 IAC 16.

(b) A registered recycler may conduct recycling activities that are consistent with this article.

(c) A registration submitted under this section is:

(1) effective upon receipt by the department; and

(2) valid for one (1) year from the date the registration is submitted to the department.

Sec. 6. The department may revoke the registration of a collector or recycler that violates either or both of the following:

(1) This article.

(2) 329 IAC 16.

Chapter 2. Manufacturer's Registration Fee; Electronic Waste Fund

Sec. 1. (a) Except as provided in subsection (g), a manufacturer that registers under IC 13-20.5-1 shall pay to the department at the time of registration an annual registration fee. The registration fee applies for the program year for which the registration is submitted to the department. The department shall deposit the fee in the electronic waste fund established by section 3 of this chapter.

(b) The registration fee for the initial program year to which the fee applies under subsection (a) is five thousand dollars ($5,000). For each program year thereafter, the registration fee is equal to two thousand five hundred dollars ($2,500).

(c) In addition to the registration fee under subsection (a), a manufacturer that registers under IC 13-20.5-1 and fails to meet the recycling goal under IC 13-20.5-4-1 is subject to a variable recycling fee for each program year that ends on March 31 of 2013 or of a later year. Not later than September 1, the department shall provide a statement to each manufacturer liable for the variable recycling fee that states at least the following:

(1) The amount of the fee determined under subsection (d).

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(2) The method of calculation of the fee.

(3) The due date of the fee.

(4) The opportunity to petition under section 2 of this chapter.

The department shall deposit the fee in the Indiana recycling promotion and assistance fund established by IC 4-23-5.5-14.

(d) The amount of the variable recycling fee, if applicable, is the amount determined in STEP FOUR of the following formula:

STEP ONE: Multiply the number of pounds of the manufacturer's video display devices sold to households during the immediately preceding program year, as reported in the manufacturer's registration for the program year under IC 13-20.5-1-1(d)(4), by the proportion of sales of video display devices required to be recycled under IC 13-20.5-4-1.

STEP TWO: Subject to subsection (e), add the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under IC 13-20.5-3-1(b), to the number of recycling credits the manufacturer elects to use to calculate the variable recycling fee, as reported to the department under IC 13-20.5-3-1(c)(2).

STEP THREE: Subtract the number of pounds determined in STEP TWO from the number of pounds determined in STEP ONE.

STEP FOUR: Multiply the greater of zero (0) or the number of pounds determined in STEP THREE by the per pound cost of recycling established as follows:

(A) Forty cents ($0.40) per pound for manufacturers that recycle less than fifty percent (50%) of the number of pounds determined in STEP ONE.

(B) Thirty cents ($0.30) per pound for manufacturers that recycle at least fifty percent (50%) but less than ninety percent (90%) of the number of pounds determined in STEP ONE.

(C) Twenty cents ($0.20) per pound for manufacturers that recycle at least ninety percent (90%) of the number of pounds determined in STEP ONE.

(e) The following apply to the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year for purposes of subsection (d), STEP TWO:

(1) Except as provided in subdivision (3), the number is multiplied by one and one-tenth (1.1) to the extent that the

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covered electronic devices were recycled in Indiana.

(2) Except as provided in subdivision (3), the number is multiplied by one and five-tenths (1.5) to the extent that the covered electronic devices were recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget.

(3) The number is multiplied by one and six-tenths (1.6) to the extent that the covered electronic devices were:

(A) recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget; and

(B) recycled in Indiana.

(f) A manufacturer may retain recycling credits to be added, in whole or in part, to the actual number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under IC 13-20.5-3-1(b), during any of the three (3) immediately succeeding program years. A manufacturer may sell all or any part of its recycling credits to another manufacturer, at a price negotiated by the parties, and the other manufacturer may use the credits in the same manner. For purposes of this subsection, the recycling credits for the program year that begins April 1, 2010, are determined taking into account covered electronic devices that the manufacturer recycled, or arranged to have collected and recycled, both:

(1) in that program year; and

(2) after June 30, 2009, and before April 1, 2010.

(g) A manufacturer may not be charged a registration fee or a variable recycling fee for any year in which the combined number of video display devices produced by the manufacturer for sale to households is less than one hundred (100).

Sec. 2. Not later than sixty (60) days after the date of the statement provided to a manufacturer under section 1(c) of this chapter, the manufacturer may petition the Indiana recycling market development board created by IC 4-23-5.5-2 for relief from the variable recycling fee imposed under section 1 of this chapter upon showing of good cause. In determining whether to grant a petition for relief under this section, the Indiana recycling market development board shall determine whether the manufacturer has made good faith progress to achieve substantial compliance with this article. A determination by the Indiana recycling market development board under this subsection is not subject to appeal

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by the manufacturer.

Sec. 3. (a) The electronic waste fund is established to implement this article. The fund shall be administered by the department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Beginning in 2011 and continuing each year thereafter, as of the last day of the state fiscal year, the department shall determine the total amount of the variable recycling fees that were collected for that state fiscal year under section 1(c) of this chapter.

(f) Except as provided in subsection (g), if the total amount of registration fees collected by the department for a state fiscal year under section 1(a) of this chapter exceeds the amount the department determines necessary to administer this article for the next state fiscal year, the department shall refund on a pro rata basis, to all manufacturers that paid any fees for the state fiscal year that contributed to those collections, the amount of fees collected by the department that exceeds the amount necessary to administer this article for the next state fiscal year.

(g) The department is not required to refund amounts under subsection (f) if either or both of the following apply:

(1) The refund amount determined under subsection (f) is less than one hundred dollars ($100).

(2) The amount the manufacturer claiming the refund recycled for the manufacturer's most recent program year was less than fifty percent (50%) of the amount the manufacturer was required to recycle for that program year under IC 13-20.5-4-1.

Chapter 3. Reporting Requirements

Sec. 1. (a) Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report to the department an estimate of the total weight in pounds of its video display devices sold to households during the program year that ends on the immediately preceding March 31 based on national sales data. A manufacturer shall submit with an estimate under this subsection a description of how the information or estimate was calculated.

(b) Not later than June 1 of 2011 and of each immediately

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succeeding year, a manufacturer shall report to the department the total weight in pounds of covered electronic devices the manufacturer:

(1) collected from eligible entities and recycled; or

(2) arranged to have collected from eligible entities and recycled;

during the program year that ends on the immediately preceding March 31.

(c) Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report the following to the department:

(1) The number of recycling credits the manufacturer has purchased and sold during the program year that ends on the immediately preceding March 31.

(2) The number of recycling credits possessed by the manufacturer that the manufacturer intends to use in the calculation of its variable recycling fee under IC 13-20.5-2-1.

(3) The number of recycling credits the manufacturer retains at the beginning of the current program year.

(4) The amount in pounds of covered electronic devices the manufacturer arranged for a recycler to collect and recycle that were not converted to recycling credits.

Sec. 2. Before April 1, 2011, and before each April 1 thereafter, a recycler of covered electronic devices shall do the following:

(1) Report to the department separately the total weight in pounds of covered electronic devices:

(A) recycled by the recycler; and

(B) taken by the recycler for final disposal;

during the immediately preceding calendar year.

(2) Certify that the recycler has complied with IC 13-20.5-5 and 329 IAC 16.

Sec. 3. Before April 1, 2011, and before each April 1 thereafter, a collector shall submit to the department a report that contains for the immediately preceding calendar year:

(1) the total weight in pounds of covered electronic devices collected in Indiana by the collector; and

(2) a list of all recyclers to whom the collector delivered covered electronic devices.

Chapter 4. Manufacturer Responsibilities

Sec. 1. A manufacturer shall in each of the manufacturer's program years recycle or arrange for the collection and recycling from covered entities of an amount of covered electronic devices

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equal to at least sixty percent (60%) of the total weight of the manufacturer's video display devices sold to households as reported in the manufacturer's registration for the program year under IC 13-20.5-1-1(d)(4).

Sec. 2. (a) A manufacturer shall conduct and document due diligence assessments of collectors and recyclers with which the manufacturer contracts to allow the manufacturer to comply with this chapter.

(b) A manufacturer shall maintain for three (3) years documentation showing that all covered electronic devices recycled, partially recycled, or sent to downstream recycling operations by the manufacturer are recycled in compliance with this article.

Sec. 3. A manufacturer shall provide the department with contact information for an individual who can be contacted regarding the manufacturer's activities under this article.

Chapter 5. Recycler Responsibilities

Sec. 1. Except to the extent otherwise required by law, a recycler is not responsible for any data that may be contained in a covered electronic device recycled by the recycler if an information storage device is included in the covered electronic device.

Chapter 6. Retailer Responsibilities

Sec. 1. A retailer that sells new video display devices shall provide information to households that:

(1) describes where and how households may recycle video display devices; and

(2) advises households of opportunities and locations for the convenient collection of video display devices for recycling.

Sec. 2. The requirement in section 1 of this chapter may be met by retailers:

(1) by providing to households the department's contact information or Internet web site address; and

(2) if the retailer sells through catalogs or the Internet, by including the information in a prominent location in the retailer's catalog or on the retailer's Internet web site.

Chapter 7. Department Duties

Sec. 1. (a) The department shall:

(1) subject to subsection (b), adopt forms for use by manufacturers, collectors, and recyclers for all registration statements, certifications, and reports required by this article; and

(2) establish procedures for:

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(A) receipt and maintenance of the registration statements and certifications filed with the department under IC 13-20.5-1; and

(B) making the statements and certifications easily available to manufacturers, retailers, and the public.

(b) The department is not required to adopt forms under subsection (a) by rule.

Sec. 2. Before June 1, 2010, and before June 1 of each year thereafter, the department shall calculate estimated sales of video display devices sold to households by each manufacturer during the immediately preceding calendar year, based on national sales data.

Sec. 3. If the revenues in the electronic waste fund established by IC 13-20.5-2-3 exceed the amount that the department determines is necessary for efficient and effective administration of this article, the department shall recommend to the general assembly in a report submitted in an electronic format under IC 5-14-6 that:

(1) the registration fee under IC 13-20.5-2-1(a); or

(2) the proportion of sales of video display devices required to be recycled under IC 13-20.5-4-1;

be lowered to reduce revenues collected in the subsequent state fiscal year by the estimated amount of the excess.

Sec. 4. (a) Before August 1, 2013, and before August 1 of each year thereafter, the department shall submit a report concerning the implementation of this article to:

(1) the general assembly in an electronic format under IC 5-14-6;

(2) the governor;

(3) the environmental quality service council established by IC 13-13-7-1; and

(4) the Indiana recycling market development board established by IC 4-23-5.5-2.

(b) For each state fiscal year, the report submitted under subsection (a):

(1) must discuss the total weight of covered electronic devices recycled in the state fiscal year and a summary of information in the reports submitted by manufacturers and recyclers under IC 13-20.5-3;

(2) must discuss the various collection programs used by manufacturers to collect covered electronic devices, information regarding covered electronic devices that are

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being collected by persons other than registered manufacturers, collectors, and recyclers, and information about covered electronic devices, if any, being disposed of in landfills in Indiana;

(3) must include a description of enforcement actions under this article during the state fiscal year; and

(4) may include other information received by the department regarding the implementation of this article.

Sec. 5. The department shall promote public participation in the activities implemented under this article through public education and outreach efforts.

Sec. 6. (a) The department shall collect the data submitted to it annually by each registered manufacturer on:

(1) the total weight in pounds of each specific model of video display device sold to households, if provided;

(2) the total weight in pounds of video display devices sold to households;

(3) the total weight in pounds of covered electronic devices collected from covered entities that are recycled; and

(4) data on recycling credits, as required under IC 13-20.5-3-1.

(b) The department shall use the data described in subsection (a) to determine the manufacturer's variable recycling fee under the formula in IC 13-20.5-2-1.

Sec. 7. The department shall estimate, for each registered manufacturer, the sales of video display devices to households during each calendar year, based on:

(1) data provided by a manufacturer on sales of video display devices to households, including documentation describing how that amount was calculated and certification that the amount is accurate; or

(2) if a manufacturer does not provide the data specified in subdivision (1), national data on sales of video display devices.

The department shall use the data specified in this section to review the determination of each manufacturer's variable recycling fee to ensure that the fee was calculated accurately according to the formula in IC 13-20.5-2-1.

Sec. 8. The department may participate in or join a regional multistate organization or compact to assist in implementing this article.

Sec. 9. If a national electronic waste program is implemented that is similar to the program established under this article, the

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department shall review, evaluate, and compare the national program, the program established under this article, and any regional agreement the department has entered into under section 8 of this chapter.

Chapter 8. Other Recycling Programs

Sec. 1. A city, a county, or any other governmental entity may not require a covered entity to use public facilities to recycle the covered entity's covered electronic devices to the exclusion of other lawful recycling programs available.

Sec. 2. This article does not prohibit or restrict:

(1) the operation of any program that recycles covered electronic devices in addition to programs provided by manufacturers;

(2) persons from receiving, collecting, transporting, or recycling covered electronic devices, if those persons are registered under IC 13-20.5-1; or

(3) a collector, recycler, or manufacturer from charging for directly collecting any covered electronic devices directly from covered entities, including charging for curbside collection from covered entities.

Chapter 9. Requirements for Purchases by State Agencies

Sec. 1. The Indiana department of administration shall ensure that acquisitions of video display devices by state agencies comply with or are not subject to this article.

Sec. 2. State agency solicitation documents must specify that the prospective responder is required to cooperate fully in providing reasonable access to the prospective responder's records and documents to demonstrate compliance with this article.

Sec. 3. A person awarded a contract by a state agency for purchase or lease of video display devices that is found to be in violation of this article is subject to the following sanctions:

(1) The contract is void if the Indiana department of administration determines that the potential adverse effect to the state from voiding the contract is exceeded by the benefit obtained from voiding the contract.

(2) If the attorney general establishes that any money, property, or benefit was obtained by a contractor as a result of violating this article, a court may, in addition to any other remedy, order the forfeiture of the unlawfully obtained money, property, or benefit.

Chapter 10. Disposal Prohibitions

Sec. 1. After 2010, a covered entity may not knowingly do any

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of the following:

(1) Mix or allow the mixing of a covered electronic device or any other computer, computer monitor, printer, or television with municipal waste that is intended for disposal at a landfill.

(2) Mix or allow the mixing of a covered electronic device or any other computer, computer monitor, printer, or television with any waste that is intended for disposal by burning or incineration.

Sec. 2. (a) A covered entity that violates this chapter is not subject to:

(1) a criminal or civil action or penalty; or

(2) any other sanction;

under this title or any other state law.

(b) A violation of this chapter does not create a cause of action.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1589, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 16, delete "entity that:" and insert "**entity:**

(1) that:

(A) receives covered electronic devices from households; and

(B) arranges for the delivery of the covered electronic devices to a recycler; or

(2) that collects covered electronic devices directly from households, including curbside collection from households.".

Page 1, delete line 17.

Page 2, delete lines 1 through 2.

Page 4, line 11, delete "as" and insert "**or a brand the person licenses as**".

Page 4, line 12, delete "; or" and insert "**or the brand label the person licenses;**".

Page 4, line 14, after "brand" insert "**or a brand the person licenses**".

Page 4, line 15, delete "." and insert "**or the brand label the person licenses; or**

(3) assumes the responsibilities and obligations of a manufacturer under IC 13-20.5.".

Page 7, line 10, delete "nine (9)" and insert "**four (4)**".

Page 7, line 19, delete "a larger piece of" and insert "**or connected to a system or**".

Page 7, line 20, delete "or is".

Page 7, line 25, delete "other than household security;" and insert "**sensing, monitoring, or counterterrorism;**".

Page 7, line 26, delete "or".

Page 7, line 27, after "medical;" insert "**or**

(H) a governmental or research and development;".

Page 8, line 6, delete "." and insert "**, regardless of whether the manufacturer owns or licenses the brand.**".

Page 11, line 31, delete "the registration fee for the" and insert "**a manufacturer may not be charged a registration fee for any year in which the manufacturer produces fewer than one hundred (100) video display devices for sale to households.**".

Page 11, delete lines 32 through 35.

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Page 13, between lines 5 and 6, begin a new line block indented and insert:

"**(4) The amount in pounds of covered electronic devices the manufacturer arranged for a recycler to collect and recycle that were not converted to recycling credits.**".

Page 13, line 20, delete "A" and insert "**(a) Except as provided in subsection (b), a**".

Page 13, line 22, delete ":" and insert "**at least eighty percent (80%) of the total weight of the manufacturer's video display devices sold to households during the preceding program year.**

(b) The solid waste management board may adopt rules:

(1) under IC 4-22-2 and IC 13-14-9; and

(2) based on data collected under this article;

to establish a percentage that is greater than eighty percent (80%) for use in calculations performed under subsection (a).".

Page 13, delete lines 23 through 30.

Page 14, line 11, delete "video display" and insert "**covered electronic**".

Page 17, between lines 6 and 7, begin a new paragraph and insert:

"**Sec. 10. If a national electronic waste program is implemented that is similar to the program established under this article, the department shall review, evaluate, and compare the national program, the program established under this article, and any regional agreement the department has entered into under section 9 of this chapter.**".

Page 17, line 15, delete "or".

Page 17, line 18, delete "IC 13-20.5-1." and insert "**IC 13-20.5-1; or**

(3) a collector, recycler, or manufacturer from charging for directly collecting any covered electronic devices directly from households, including charging for curbside collection from households.".

Page 17, line 40, delete "person" and insert "**household**".

Page 18, delete lines 3 through 5.

Page 18, line 6, delete "(3)" and insert "**(2)**".

Page 18, after line 9, begin a new paragraph and insert:

"**Sec. 2. (a) A household that violates this chapter is not subject to:**

(1) a criminal or civil action or penalty; or

(2) any other sanction;

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under this title or any other state law.

(b) A violation of this chapter does not create a cause of action.".

and when so amended that said bill do pass.

(Reference is to HB 1589 as introduced.)

DVORAK, Chair

Committee Vote: yeas 7, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred House Bill No. 1589, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-23-5.5-6, AS AMENDED BY P.L.204-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The board shall do the following:

(1) Adopt procedures for the regulation of its affairs and the conduct of its business.

(2) Meet at the offices of the division on call of:

(A) the lieutenant governor or the lieutenant governor's designee; or

(B) the commissioner of the department of environmental management or the commissioner's designee;

at least once each calendar quarter. The meetings shall be upon ten (10) days written notification, shall be open to the public, and shall have official minutes recorded for public scrutiny.

(3) Report annually in an electronic format under IC 5-14-6 to the legislative council the projects in which it has participated and is currently participating with a complete list of expenditures for those projects.

(4) Annually prepare an administrative budget for review by the budget agency and the budget committee.

(5) Keep proper records of accounts and make an annual report of its condition to the state board of accounts.

(6) Receive petitions and make determinations under IC 13-20.5-2-2.

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(b) The board shall consider projects involving the creation of the following:

(1) Markets for products made from recycled materials.

(2) New products made from recycled materials.

(c) The board may promote, fund, and encourage programs facilitating the development and implementation of waste reduction, reuse, and recycling in Indiana.

SECTION 2. IC 4-23-5.5-14, AS AMENDED BY P.L.170-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) The Indiana recycling promotion and assistance fund is established. The purpose of the fund is to promote and assist recycling throughout Indiana by focusing economic development efforts on businesses and projects involving recycling. The fund shall be administered by the board.

(b) Sources of money for the fund consist of the following:

(1) Appropriations from the general assembly.

(2) Repayment proceeds of loans made from the fund.

(3) Gifts and donations.

(4) Money from the solid waste management fund.

(5) Variable recycling fee revenue deposited under IC 13-20.5-2-1.

(c) Money remaining in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) The board may use money in the fund to make loans to assist:

(1) persons in establishing new recycling businesses;

(2) in the expansion of existing recycling businesses; and

(3) manufacturers in retrofitting equipment necessary to reuse or recycle secondary materials.

(e) The board shall establish loan:

(1) amounts;

(2) terms; and

(3) interest rates.

(f) The board may use money in the fund to make grants for research and development projects involving recycling. The board shall establish amounts for grants.

(g) A person, business, or manufacturer that wants a grant or loan from the fund must file an application with the board.

(h) The board shall establish criteria for awarding grants and loans under this section.

(i) The board may transfer money in the fund to the state solid waste management fund established by IC 13-20-22-2 for use by the department of environmental management to make payments under

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IC 13-20-17.7-6.".

Page 1, line 5, delete "used" and insert "**designed**".

Page 1, line 10, delete "households." and insert "**covered entities.**".

Page 1, line 15, after "31.2." insert "**(a)**".

Page 2, line 1, delete "households;" and insert "**covered entities;**".

Page 2, line 5, after "from" insert "**covered entities, including curbside collection.**

(b) The term does not include:

(1) the United States Postal Service; or

(2) any other parcel service;

that accepts packages and delivers them to collectors or recyclers under a manufacturer's mailback program.".

Page 2, delete line 6.

Page 2, line 14, delete "an automated typewriter or" and insert "**the following:**

(1) An automated typewriter or typesetter.

(2) A portable handheld calculator or device.".

Page 2, delete lines 15 through 16.

Page 2, line 31, delete "household" and insert "**covered entity**".

Page 2, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 9. IC 13-11-2-47.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 47.7. "Covered entity", for purposes of this chapter and IC 13-20.5, means the following:**

(1) A household.

(2) A public school.

(3) A small business.".

Page 3, line 1, after "purposes" insert "**of section 47.7 of this**".

Page 3, delete line 2.

Page 3, run in lines 1 through 3.

Page 3, line 5, delete "." and insert "**or home office use.**".

Page 5, line 22, delete "July 1" and insert "**April 1**".

Page 5, line 23, delete "June 30" and insert "**March 31**".

Page 5, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 17. IC 13-11-2-176.5, AS AMENDED BY P.L.1-2005, SECTION 142, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 176.5. **(a)** "Public school", for purposes of IC 13-20-17.5, has the meaning set forth in IC 20-18-2-15.

(b) "Public school", for purposes of section 47.7 of this chapter means:

(1) a public school (as defined in IC 20-18-2-15); and

(2) a charter school (as defined in IC 20-24-1-4).".

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Page 5, line 29, delete "households" and insert "**covered entities**".

Page 6, line 9, delete "households" and insert "**covered entities**".

Page 6, line 13, delete "result of:" and insert "**product of:**

(1) the remainder for a manufacturer's program year of:

(A) the amount of covered electronic devices the manufacturer recycled, or for which the manufacturer arranged for recycling; minus

(B) the amount the manufacturer is required to recycle or arrange for recycling determined under IC 13-20.5-4-1; multiplied by

(2) twenty-five percent (25%).".

Page 6, delete lines 14 through 21.

Page 6, line 31, delete "household" and insert "**covered entity**".

Page 7, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 22. IC 13-11-2-203.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 203.5. (a) Except as provided in subsection (b), "small business", for purposes of section 47.7 of this chapter, means a business that satisfies all the following:**

(1) The business is independently owned and operated.

(2) The principal office of the business is located in Indiana.

(3) The business satisfies either of the following:

(A) The business has not more than:

(i) one hundred (100) employees; and

(ii) average annual gross receipts of ten million dollars ($10,000,000).

(B) If the business is a manufacturing business, the business does not have more than one hundred (100) employees.

(b) "Small business" does not include a business subject to electronic waste regulation under 329 IAC 16-3-1.".

Page 7, line 20, delete "households." and insert "**covered entities.**".

Page 8, delete lines 4 through 42, begin a new line block indented and insert:

"**(4) Either of the following that does not contain a video display area greater than nine (9) inches measured diagonally:**

(A) A telephone.

(B) A device capable of using commercial mobile radio service (as defined in 47 CFR 20.3).

SECTION 24. IC 13-13-7-9, AS ADDED BY P.L.12-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2009]: Sec. 9. The council shall do the following:

(1) Study:

(A) issues designated by the legislative council; **and**

(B) the following in 2012:

(i) The effectiveness of the electronic waste provisions of IC 13-20.5.

(ii) Appropriate guidelines for the Indiana recycling market development board for determining under IC 13-20.5-2-2 whether a manufacturer has made good faith progress to achieve substantial compliance with IC 13-20.5.

(2) Advise the commissioner on policy issues decided on by the council.

(3) Review the mission and goals of the department and evaluate the implementation of the mission.

(4) Serve as a council of the general assembly to evaluate:

(A) resources and structural capabilities of the department to meet the department's priorities; and

(B) program requirements and resource requirements for the department.

(5) Serve as a forum for citizens, the regulated community, and legislators to discuss broad policy directions.

(6) Submit a final report to the legislative council, in an electronic format under IC 5-14-6, that contains at least the following:

(A) An outline of activities of the council.

(B) Recommendations for department action.

(C) Recommendations for legislative action.

SECTION 25. IC 13-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 20.5. ELECTRONIC WASTE

Chapter 1. Registration Programs

Sec. 1. (a) A manufacturer of video display devices sold or offered for sale to households as of January 1, 2010, shall submit a registration to the department not later than:

(1) April 1, 2010, for the program year that begins on April 1, 2010; and

(2) each immediately succeeding April 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that April 1.

(b) A manufacturer that begins to sell or offer for sale video

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display devices to households after 2009 and before April 1, 2010, shall submit a registration to the department not later than:

(1) April 20, 2010, for the program year that begins on April 1, 2010; and

(2) each immediately succeeding April 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that April 1.

(c) A manufacturer that begins to sell or offer for sale video display devices to households after March 31, 2010, shall submit a registration to the department not later than:

(1) twenty (20) days after the date the manufacturer begins to sell or offer for sale the video display devices for the program year in which the manufacturer begins to sell or offer for sale the video display devices; and

(2) each immediately succeeding April 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that April 1.

(d) A registration submitted under this section must include the following:

(1) A list of the brands of video display devices offered for sale in Indiana by the manufacturer, regardless of whether the manufacturer owns or licenses the brand.

(2) The name, address, and contact information of a person responsible for ensuring compliance with this article. The department shall post the contact information provided by each manufacturer on an Internet web site.

(3) A certification that the manufacturer or the manufacturer's agent has complied and will continue to comply with the requirements of this article.

(4) An estimate based on national sales data of the total weight in pounds of the manufacturer's video display devices sold to households during the most recent twelve (12) months:

(A) that precede the date of registration; and

(B) for which that data is available.

(5) A demonstration of how the manufacturer plans in the program year for which the registration is submitted to meet the recycling goal stated in IC 13-20.5-4-1.

(6) A statement that discloses whether:

(A) any video display devices sold by the manufacturer to households exceed the maximum concentration values

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established:

(i) for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (pbbs), and polybrominated diphenyl ethers (pbdes); and

(ii) under the directive restricting the use of certain hazardous substances in electrical and electronic equipment (RoHS Directive) 2002/95/EC of the European Parliament and Council, as amended; or

(B) the manufacturer has received an exemption from any of the maximum concentration values under the RoHS Directive that has been approved and published by the European Commission.

(e) A manufacturer shall update the manufacturer's registration under this section not more than ten (10) days after the date the manufacturer changes the brand or brands of video display devices the manufacturer sells or offers for sale to households.

Sec. 2. After 2009, a manufacturer may not sell, offer for sale, or deliver to a retailer for subsequent sale a new video display device unless:

(1) the video display device is labeled with the manufacturer's brand that is permanently affixed and readily visible; and

(2) the manufacturer has submitted a registration to the department under section 1 of this chapter.

Sec. 3. (a) A registration received from a manufacturer by the department under this chapter is, except as provided in subsection (b), effective for the program year for which the registration is submitted under section 1 of this chapter.

(b) The department shall review each registration and notify a manufacturer of any information required by this chapter that is omitted from the manufacturer's registration. Not more than thirty (30) days after the date a manufacturer receives notification from the department concerning incomplete information in the manufacturer's registration, the manufacturer shall submit a revised registration that includes the information required by the department. A registration received from a manufacturer by the department under this subsection is, unless the manufacturer receives a second or subsequent notification from the department concerning incomplete information, effective for the program year for which the registration is submitted under section 1 of this chapter.

(c) The department shall maintain on an Internet web site the names of manufacturers and the manufacturers' brands listed in

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registrations submitted to the department. The department shall update the Internet web site information promptly upon receipt of a new or updated registration. The Internet web site must contain prominent language stating that:

(1) this article is directed at video display devices used by households; and

(2) the manufacturers' brands list is not a list of manufacturers qualified to sell to industrial, commercial, or other markets identified as exempt from the requirements of this article.

Sec. 4. (a) After 2009, a person may not operate as a collector of covered electronic devices from covered entities unless the person:

(1) has submitted to the department a completed registration form as required by 329 IAC 16-5-1; and

(2) otherwise complies with 329 IAC 16.

(b) A registration submitted under this section is:

(1) effective upon receipt by the department; and

(2) valid for one (1) year from the date the registration is submitted to the department.

Sec. 5. (a) After 2009, a person may not recycle covered electronic devices generated by covered entities unless the person:

(1) has submitted to the department a completed registration form as required by 329 IAC 16-5-1; and

(2) otherwise complies with 329 IAC 16.

(b) A registered recycler may conduct recycling activities that are consistent with this article.

(c) A registration submitted under this section is:

(1) effective upon receipt by the department; and

(2) valid for one (1) year from the date the registration is submitted to the department.

Sec. 6. The department may revoke the registration of a collector or recycler that violates either or both of the following:

(1) This article.

(2) 329 IAC 16.

Chapter 2. Manufacturer's Registration Fee; Electronic Waste Fund

Sec. 1. (a) Except as provided in subsection (g), a manufacturer that registers under IC 13-20.5-1 shall pay to the department at the time of registration an annual registration fee. The registration fee applies for the program year for which the registration is submitted to the department. The department shall deposit the fee in the electronic waste fund established by section 3 of this chapter.

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(b) The registration fee for the initial program year to which the fee applies under subsection (a) is five thousand dollars ($5,000). For each program year thereafter, the registration fee is equal to two thousand five hundred dollars ($2,500).

(c) In addition to the registration fee under subsection (a), a manufacturer that registers under IC 13-20.5-1 and fails to meet the recycling goal under IC 13-20.5-4-1 is subject to a variable recycling fee for each program year that ends on March 31 of 2013 or of a later year. Not later than September 1, the department shall provide a statement to each manufacturer liable for the variable recycling fee that states at least the following:

(1) The amount of the fee determined under subsection (d).

(2) The method of calculation of the fee.

(3) The due date of the fee.

(4) The opportunity to petition under section 2 of this chapter.

The department shall deposit the fee in the Indiana recycling promotion and assistance fund established by IC 4-23-5.5-14.

(d) The amount of the variable recycling fee, if applicable, is the amount determined in STEP FOUR of the following formula:

STEP ONE: Multiply the number of pounds of the manufacturer's video display devices sold to households during the immediately preceding program year, as reported in the manufacturer's registration for the program year under IC 13-20.5-1-1(d)(4), by the proportion of sales of video display devices required to be recycled under IC 13-20.5-4-1.

STEP TWO: Subject to subsection (e), add the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under IC 13-20.5-3-1(b), to the number of recycling credits the manufacturer elects to use to calculate the variable recycling fee, as reported to the department under IC 13-20.5-3-1(c)(2).

STEP THREE: Subtract the number of pounds determined in STEP TWO from the number of pounds determined in STEP ONE.

STEP FOUR: Multiply the greater of zero (0) or the number of pounds determined in STEP THREE by the per pound cost of recycling established as follows:

(A) Forty cents ($0.40) per pound for manufacturers that recycle less than fifty percent (50%) of the number of pounds determined in STEP ONE.

(B) Thirty cents ($0.30) per pound for manufacturers that

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recycle at least fifty percent (50%) but less than ninety percent (90%) of the number of pounds determined in STEP ONE.

(C) Twenty cents ($0.20) per pound for manufacturers that recycle at least ninety percent (90%) of the number of pounds determined in STEP ONE.

(e) The following apply to the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year for purposes of subsection (d), STEP TWO:

(1) Except as provided in subdivision (3), the number is multiplied by one and one-tenth (1.1) to the extent that the covered electronic devices were recycled in Indiana.

(2) Except as provided in subdivision (3), the number is multiplied by one and five-tenths (1.5) to the extent that the covered electronic devices were recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget.

(3) The number is multiplied by one and six-tenths (1.6) to the extent that the covered electronic devices were:

(A) recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget; and

(B) recycled in Indiana.

(f) A manufacturer may retain recycling credits to be added, in whole or in part, to the actual number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under IC 13-20.5-3-1(b), during any of the three (3) immediately succeeding program years. A manufacturer may sell all or any part of its recycling credits to another manufacturer, at a price negotiated by the parties, and the other manufacturer may use the credits in the same manner. For purposes of this subsection, the recycling credits for the program year that begins April 1, 2010, are determined taking into account covered electronic devices that the manufacturer recycled, or arranged to have collected and recycled, both:

(1) in that program year; and

(2) after June 30, 2009, and before April 1, 2010.

(g) A manufacturer may not be charged a registration fee or a variable recycling fee for any year in which the combined number of video display devices produced by the manufacturer for sale to

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households is less than one hundred (100).

Sec. 2. Not later than sixty (60) days after the date of the statement provided to a manufacturer under section 1(c) of this chapter, the manufacturer may petition the Indiana recycling market development board created by IC 4-23-5.5-2 for relief from the variable recycling fee imposed under section 1 of this chapter upon showing of good cause. In determining whether to grant a petition for relief under this section, the Indiana recycling market development board shall determine whether the manufacturer has made good faith progress to achieve substantial compliance with this article. A determination by the Indiana recycling market development board under this subsection is not subject to appeal by the manufacturer.

Sec. 3. (a) The electronic waste fund is established to implement this article. The fund shall be administered by the department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Beginning in 2011 and continuing each year thereafter, as of the last day of the state fiscal year, the department shall determine the total amount of the variable recycling fees that were collected for that state fiscal year under section 1(c) of this chapter.

(f) Except as provided in subsection (g), if the total amount of registration fees collected by the department for a state fiscal year under section 1(a) of this chapter exceeds the amount the department determines necessary to administer this article for the next state fiscal year, the department shall refund on a pro rata basis, to all manufacturers that paid any fees for the state fiscal year that contributed to those collections, the amount of fees collected by the department that exceeds the amount necessary to administer this article for the next state fiscal year.

(g) The department is not required to refund amounts under subsection (f) if either or both of the following apply:

(1) The refund amount determined under subsection (f) is less than one hundred dollars ($100).

(2) The amount the manufacturer claiming the refund recycled for the manufacturer's most recent program year

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was less than fifty percent (50%) of the amount the manufacturer was required to recycle for that program year under IC 13-20.5-4-1.

Chapter 3. Reporting Requirements

Sec. 1. (a) Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report to the department an estimate of the total weight in pounds of its video display devices sold to households during the program year that ends on the immediately preceding March 31 based on national sales data. A manufacturer shall submit with an estimate under this subsection a description of how the information or estimate was calculated.

(b) Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report to the department the total weight in pounds of covered electronic devices the manufacturer:

(1) collected from eligible entities and recycled; or

(2) arranged to have collected from eligible entities and recycled;

during the program year that ends on the immediately preceding March 31.

(c) Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report the following to the department:

(1) The number of recycling credits the manufacturer has purchased and sold during the program year that ends on the immediately preceding March 31.

(2) The number of recycling credits possessed by the manufacturer that the manufacturer intends to use in the calculation of its variable recycling fee under IC 13-20.5-2-1.

(3) The number of recycling credits the manufacturer retains at the beginning of the current program year.

(4) The amount in pounds of covered electronic devices the manufacturer arranged for a recycler to collect and recycle that were not converted to recycling credits.

Sec. 2. Before April 1, 2011, and before each April 1 thereafter, a recycler of covered electronic devices shall do the following:

(1) Report to the department separately the total weight in pounds of covered electronic devices:

(A) recycled by the recycler; and

(B) taken by the recycler for final disposal;

during the immediately preceding calendar year.

(2) Certify that the recycler has complied with IC 13-20.5-5

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and 329 IAC 16.

Sec. 3. Before April 1, 2011, and before each April 1 thereafter, a collector shall submit to the department a report that contains for the immediately preceding calendar year:

(1) the total weight in pounds of covered electronic devices collected in Indiana by the collector; and

(2) a list of all recyclers to whom the collector delivered covered electronic devices.

Chapter 4. Manufacturer Responsibilities

Sec. 1. A manufacturer shall in each of the manufacturer's program years recycle or arrange for the collection and recycling from covered entities of an amount of covered electronic devices equal to at least sixty percent (60%) of the total weight of the manufacturer's video display devices sold to households as reported in the manufacturer's registration for the program year under IC 13-20.5-1-1(d)(4).

Sec. 2. (a) A manufacturer shall conduct and document due diligence assessments of collectors and recyclers with which the manufacturer contracts to allow the manufacturer to comply with this chapter.

(b) A manufacturer shall maintain for three (3) years documentation showing that all covered electronic devices recycled, partially recycled, or sent to downstream recycling operations by the manufacturer are recycled in compliance with this article.

Sec. 3. A manufacturer shall provide the department with contact information for an individual who can be contacted regarding the manufacturer's activities under this article.

Chapter 5. Recycler Responsibilities

Sec. 1. Except to the extent otherwise required by law, a recycler is not responsible for any data that may be contained in a covered electronic device recycled by the recycler if an information storage device is included in the covered electronic device.

Chapter 6. Retailer Responsibilities

Sec. 1. A retailer that sells new video display devices shall provide information to households that:

(1) describes where and how households may recycle video display devices; and

(2) advises households of opportunities and locations for the convenient collection of video display devices for recycling.

Sec. 2. The requirement in section 1 of this chapter may be met by retailers:

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(1) by providing to households the department's contact information or Internet web site address; and

(2) if the retailer sells through catalogs or the Internet, by including the information in a prominent location in the retailer's catalog or on the retailer's Internet web site.

Chapter 7. Department Duties

Sec. 1. (a) The department shall:

(1) subject to subsection (b), adopt forms for use by manufacturers, collectors, and recyclers for all registration statements, certifications, and reports required by this article; and

(2) establish procedures for:

(A) receipt and maintenance of the registration statements and certifications filed with the department under IC 13-20.5-1; and

(B) making the statements and certifications easily available to manufacturers, retailers, and the public.

(b) The department is not required to adopt forms under subsection (a) by rule.

Sec. 2. Before June 1, 2010, and before June 1 of each year thereafter, the department shall calculate estimated sales of video display devices sold to households by each manufacturer during the immediately preceding calendar year, based on national sales data.

Sec. 3. If the revenues in the electronic waste fund established by IC 13-20.5-2-3 exceed the amount that the department determines is necessary for efficient and effective administration of this article, the department shall recommend to the general assembly in a report submitted in an electronic format under IC 5-14-6 that:

(1) the registration fee under IC 13-20.5-2-1(a); or

(2) the proportion of sales of video display devices required to be recycled under IC 13-20.5-4-1;

be lowered to reduce revenues collected in the subsequent state fiscal year by the estimated amount of the excess.

Sec. 4. (a) Before August 1, 2013, and before August 1 of each year thereafter, the department shall submit a report concerning the implementation of this article to:

(1) the general assembly in an electronic format under IC 5-14-6;

(2) the governor;

(3) the environmental quality service council established by

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IC 13-13-7-1; and

(4) the Indiana recycling market development board established by IC 4-23-5.5-2.

(b) For each state fiscal year, the report submitted under subsection (a):

(1) must discuss the total weight of covered electronic devices recycled in the state fiscal year and a summary of information in the reports submitted by manufacturers and recyclers under IC 13-20.5-3;

(2) must discuss the various collection programs used by manufacturers to collect covered electronic devices, information regarding covered electronic devices that are being collected by persons other than registered manufacturers, collectors, and recyclers, and information about covered electronic devices, if any, being disposed of in landfills in Indiana;

(3) must include a description of enforcement actions under this article during the state fiscal year; and

(4) may include other information received by the department regarding the implementation of this article.

Sec. 5. The department shall promote public participation in the activities implemented under this article through public education and outreach efforts.

Sec. 6. (a) The department shall collect the data submitted to it annually by each registered manufacturer on:

(1) the total weight in pounds of each specific model of video display device sold to households, if provided;

(2) the total weight in pounds of video display devices sold to households;

(3) the total weight in pounds of covered electronic devices collected from covered entities that are recycled; and

(4) data on recycling credits, as required under IC 13-20.5-3-1.

(b) The department shall use the data described in subsection (a) to determine the manufacturer's variable recycling fee under the formula in IC 13-20.5-2-1.

Sec. 7. The department shall estimate, for each registered manufacturer, the sales of video display devices to households during each calendar year, based on:

(1) data provided by a manufacturer on sales of video display devices to households, including documentation describing how that amount was calculated and certification that the

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amount is accurate; or

(2) if a manufacturer does not provide the data specified in subdivision (1), national data on sales of video display devices.

The department shall use the data specified in this section to review the determination of each manufacturer's variable recycling fee to ensure that the fee was calculated accurately according to the formula in IC 13-20.5-2-1.

Sec. 8. The department may participate in or join a regional multistate organization or compact to assist in implementing this article.

Sec. 9. If a national electronic waste program is implemented that is similar to the program established under this article, the department shall review, evaluate, and compare the national program, the program established under this article, and any regional agreement the department has entered into under section 8 of this chapter.

Chapter 8. Other Recycling Programs

Sec. 1. A city, a county, or any other governmental entity may not require a covered entity to use public facilities to recycle the covered entity's covered electronic devices to the exclusion of other lawful recycling programs available.

Sec. 2. This article does not prohibit or restrict:

(1) the operation of any program that recycles covered electronic devices in addition to programs provided by manufacturers;

(2) persons from receiving, collecting, transporting, or recycling covered electronic devices, if those persons are registered under IC 13-20.5-1; or

(3) a collector, recycler, or manufacturer from charging for directly collecting any covered electronic devices directly from covered entities, including charging for curbside collection from covered entities.

Chapter 9. Requirements for Purchases by State Agencies

Sec. 1. The Indiana department of administration shall ensure that acquisitions of video display devices by state agencies comply with or are not subject to this article.

Sec. 2. State agency solicitation documents must specify that the prospective responder is required to cooperate fully in providing reasonable access to the prospective responder's records and documents to demonstrate compliance with this article.

Sec. 3. A person awarded a contract by a state agency for purchase or lease of video display devices that is found to be in

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violation of this article is subject to the following sanctions:

(1) The contract is void if the Indiana department of administration determines that the potential adverse effect to the state from voiding the contract is exceeded by the benefit obtained from voiding the contract.

(2) If the attorney general establishes that any money, property, or benefit was obtained by a contractor as a result of violating this article, a court may, in addition to any other remedy, order the forfeiture of the unlawfully obtained money, property, or benefit.

Chapter 10. Disposal Prohibitions

Sec. 1. After 2010, a covered entity may not knowingly do any of the following:

(1) Mix or allow the mixing of a covered electronic device or any other computer, computer monitor, printer, or television with municipal waste that is intended for disposal at a landfill.

(2) Mix or allow the mixing of a covered electronic device or any other computer, computer monitor, printer, or television with any waste that is intended for disposal by burning or incineration.

Sec. 2. (a) A covered entity that violates this chapter is not subject to:

(1) a criminal or civil action or penalty; or

(2) any other sanction;

under this title or any other state law.

(b) A violation of this chapter does not create a cause of action.".

Delete pages 9 through 18.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1589 as printed February 17, 2009.)

GARD, Chairperson

Committee Vote: Yeas 9, Nays 0.

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