

A bill for an act

relating to solid waste; enacting the Minnesota Electronic Recycling Act of 2006; establishing a statewide electronics collection and recycling program; proposing coding for new law in Minnesota Statutes 2004; chapter 115A

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

Section 1. **[115A.1310.] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 115A.1310 to 115A.1324, the following terms have the meanings given.

Subd. 2. **Cathode ray tube or CRT.** "Cathode ray tube" or "CRT" means a vacuum tube or picture tube used to convert an electronic signal into a visual image. It is composed primarily of glass, and is the video display component of a television or computer monitor, and includes other items integrally attached to the CRT.

Subd. 3. **Collection.** "Collection" means the aggregation of covered electronic devices from households and includes all the activities up to the time the covered electronic devices are delivered to a recycler.

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

Subd. 5. **Computer.** "Computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, but does not include an automated typewriter or typesetter, a portable handheld calculator or device, or other similar device.

Subd. 6. **Computer monitor.** "Computer monitor" means an electronic device that is a cathode ray tube or flat panel display primarily intended to display information from a central processing unit or the Internet. Computer monitor includes a laptop computer, desktop computer, or personal computer.

Subd. 7. **Covered electronic device.** "Covered electronic device" means computers, peripherals, facsimile machines, scanners, DVD players, video cassette recorders, and video display devices that are sold to a household by means of retail, wholesale or electronic commerce.

Subd. 8. **Department.** "Department" means the Minnesota Department of Revenue.

1 Subd. 9. Dwelling unit. "Dwelling unit" has the meaning given in section 238.02,
2 subdivision 21a.

3 Subd. 10. Household. "Household" means an occupant of a single detached dwelling
4 unit or a single unit of a multiple dwelling unit located in this state who has used a covered
5 electronic device at a dwelling unit primarily for personal use.

6 Subd. 11. Manufacturer. "Manufacturer" means a person who: (1) manufactures video
7 display devices to be sold under its own brand as identified by its own brand label; or (2) sells
8 video display devices manufactured by others under its own brand as identified by its own brand
9 label.

10 Subd. 12. Peripherals. "Peripherals" means a keyboard, computer mouse, printer, or
11 any device external to a computer that provides input or output into or from a computer.

12 Subd. 13. Program year. "Program year" means the period from July 1 through June
13 30.

14 Subd. 14. Recycler. "Recycler" means a public or private individual or entity who
15 accepts covered electronic devices from households and collectors for the purpose of recycling.

16 Subd. 15. Recycling. "Recycling" means the process of collecting and preparing
17 covered electronic devices for reuse in their original form, including any repair or refurbishment
18 that may be performed, or for use in manufacturing processes that do not cause the destruction of
19 the component materials in a manner that precludes further use.

20 Subd. 16. Recycling credits. "Recycling credits" means the number of pounds of
21 covered electronic devices recycled by a manufacturer from households during a program year
22 less the product of the number of pounds of video display devices sold to households during the
23 same program year multiplied by the proportion of sales a manufacturer is required to recycle.
24 The calculation and uses of recycling credits are as specified in section 115A.1314, subdivision
25 1.

26 Subd. 17. Retailer. "Retailer" means a person who sells, rents or leases through sales
27 outlets, catalogs, or the Internet a video display device to a household, and not for resale in any
28 form.

29 Subd. 18. Sell or sale. "Sell" or "sale" means any transfer for consideration of title or of
30 the right to use, by lease or sales contract, including, but not limited to, transactions conducted
31 through sales outlets, catalogs, or the Internet, or any other similar electronic means either inside

1 or outside of the state, by a person who conducts the transaction and controls the delivery of a
2 video display device to a consumer in the state, but does not include a wholesale transaction with
3 a distributor or a retailer.

4 Subd. 19. **Television.** "Television" means an electronic device that is a cathode ray tube
5 or flat panel display primarily intended to receive video programming via broadcast, cable, or
6 satellite transmission or video from surveillance or other similar cameras.

7 Subd. 20. **Video display device.** "Video display device" means a computer monitor or
8 television with a screen size greater than four inches measured diagonally. "Video display
9 device" does not include a video display device that is part of or contained in a motor vehicle;
10 industrial, commercial, traffic control, or security, other than household security, equipment; or
11 medical equipment, including diagnostic, monitoring, and control equipment; or any appliance.

12 **Sec. 2. [115A.1312] REGISTRATION PROGRAM.**

13 **Subd. 1. Requirements for sale.**

14 (a) On and after January 1, 2007, a retailer or manufacturer must not sell or offer for sale a
15 new video display device to any person in the state unless:

16 (1) the video display device is labeled with the manufacturer's brand, which label is
17 permanently affixed and readily visible; and

18 (2) the manufacturer has filed a registration with the agency, as specified in subdivision
19 2.

20 (b) A retailer or manufacturer who sells or offers for sale a new video display device to a
21 household in this state must, before the initial offer for sale, review the agency Web site
22 specified in subdivision 2, paragraph (g), and determine that all new video display devices that
23 the retailer or manufacturer is offering for sale are labeled with manufacturer's brands that are
24 registered with the agency.

25 (c) A retailer is not responsible for an unlawful sale under this paragraph if the
26 manufacturer's registration expired or was revoked and the retailer took possession of the video
27 display device prior to the expiration or revocation of the manufacturer's registration and the
28 unlawful sale occurred within six months after the expiration or revocation.

29 **Subd. 2. **Manufacturer's registration.**** (a) By August 1, 2006 and each year thereafter,
30 a manufacturer of video display devices sold to a household in this state must submit a
31 registration to the agency that includes:

1 (1) a list of the manufacturer's brands of covered electronic devices offered for sale in
2 this state;

3 (2) the name, address and contact information of a person responsible for ensuring
4 compliance with this chapter; and

5 (3) a certification that the manufacturer has complied and will continue to comply with
6 the requirements of sections 115A.1312 to 115A.1318.

7 (b) By August 1, 2008, and each year thereafter, a manufacturer of video display devices
8 sold to a household in this state must submit a registration to the agency that includes a
9 statement disclosing whether all video display devices sold to households comply with the
10 maximum concentration values established for lead, mercury, cadmium, hexavalent chromium,
11 polybrominated biphenyls (PBBs), and polybrominated diphenyl ethers (PBDEs) under the
12 RoHS (restricting the use of certain hazardous substances in electrical and electronic equipment)
13 Directive 2002/95/EC of the European Parliament and Council and any amendments thereto

14 (c) A manufacturer who begins to sell or offer for sale video display devices after August
15 1, 2006 and has not filed a registration under this subdivision must submit a registration to the
16 agency within ten days of beginning to sell or offer for sale covered electronic devices to
17 households in this state.

18 (d) A registration must be updated within ten days after a change in the manufacturer's
19 brands of video display devices sold or offered for sale in this state.

20 (e) A registration is effective upon receipt by the agency, and is valid until August 1 of
21 each year.

22 (f) The agency must review each registration and notify the manufacturer of any
23 information required by this section that is omitted from the registration. Within 30 days of
24 receipt of a notification from the agency, the manufacturer must submit a revised registration
25 providing the information noted by the agency.

26 (g) The agency must maintain on its Web site the names of manufacturers and the
27 manufacturers' brands listed in registrations filed with the agency. The agency must update the
28 Web site information promptly upon receipt of a new or updated registration.

29 Subd. 3. **Collector's registration.** After August 1, 2006, no person may operate as a
30 collector of covered electronic devices from households unless that person has submitted a
31 registration with the agency on a form prescribed by the commissioner of pollution control.

1 Registration information must include name, address, phone number and location of the
2 business, and a certification that the collector has complied and will continue to comply with the
3 requirements of sections 115A.1312 to 115A.1318. A registration is effective upon receipt by
4 the agency, and is valid until August 1 of each year.

5 Subd. 4. **Recycler's Registration.** After August 1, 2006, no person may recycle video
6 display devices generated by households unless that person has submitted a registration with the
7 agency on a form prescribed by the commissioner of pollution control. Registration information
8 must include name, address, phone number and location of all recycling facilities under the direct
9 control of the recycler that may receive video display devices from households, and a
10 certification that the recycler has complied and will continue to comply with the requirements of
11 sections 115A.1312 to 115A.1318. A registered recycler is authorized to conduct recycling
12 activities that are consistent with provisions of this chapter. A registration is effective upon
13 receipt by the agency and is valid until August 1 of each year.

14
15 **Sec. 3. [115A.1314.] MANUFACTURER'S REGISTRATION FEE; CREATION OF**
16 **ACCOUNT.**

17 Subd. 1. **Registration fee.** (a) Each manufacturer who registers under this section must,
18 by August 1 of 2006 and each year thereafter, pay to the commissioner of revenue an annual
19 registration fee. The commissioner of revenue must deposit the fee in the account established in
20 subdivision 2.

21 (b) The registration fee for the initial program year during which a manufacturer sells or
22 offers for sale video display devices to households is \$5,000. Each year thereafter, the
23 registration fee is equal to a base fee of \$5,000, plus a variable recycling fee calculated according
24 to the formula

25 $((A \times B) - (C + D)) \times E$, where

26 (1) A = the number of pounds of video display devices sold by a manufacturer to households
27 during the previous program year, as reported to the department under section 115A.1316,
28 subdivision 1;

29 (2) B = the proportion of sales of video display devices required to be recycled, initially set at
30 1.00;

1 (3) C = the number of pounds of covered electronic devices recycled by a manufacturer from
2 households during the previous program year, as reported to the department under section
3 115A.1316, subdivision 2;

4 (4) D = the number of recycling credits a manufacturer elects to use to calculate the variable
5 recycling fee, as reported to the department under section 115A.1316, subdivision 1; and

6 (5) E = the estimated per pound cost of recycling, initially set at \$.50 per pound.

7 (c) If, as specified in paragraph (b), the term $C - (A \times B)$ equals a positive number of
8 pounds, that amount is defined as the manufacturer's "recycling credits." A manufacturer may
9 retain recycling credits to be added, in whole or in part, to the actual value of C, as reported
10 under section 115A.1316, subdivision 2, during any of the three succeeding program years. A
11 manufacturer may sell any portion or all of its recycling credits to another manufacturer, at a
12 price negotiated by the parties, who may use the credits in the same manner.

13 (d) For the purpose of calculating a manufacturer's variable recycling fee under
14 paragraph (b), the weight of covered electronic devices collected from households located in
15 counties other than Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Kanabec, Le Sueur,
16 McLeod, Meeker, Pine, Ramsey, Renville, Rice, Scott, Sherburne, Sibley, Washington, and
17 Wright is calculated at 1.3 times their actual weight.

18 (e) The registration fee for the initial program year and the base registration fee thereafter
19 for a manufacturer who sells fewer than 1,000 video display devices annually to households is
20 \$2,500.

21 **Subd. 2. Creation of account; appropriations.**

22 (a) The electronic waste account is established in the environmental fund. The
23 commissioner of revenue must deposit receipts from the fee established in subdivision 2 in the
24 account. Any interest earned on the account must remain in the account. Money from other
25 sources may be credited to the account.

26 (b) The legislature shall appropriate money from the account: (1) to the commissioner of
27 pollution control and the commissioner of revenue for the purpose of implementing sections
28 115A.1312 to 115A.1330 ; and (2) to the commissioner of pollution control to be distributed
29 among counties outside the 11-county metropolitan area, consisting of those counties listed in
30 section 473.121, subdivision 2, and the counties of Wright, Isanti, Chisago and Sherburne, for

1 the purposes of promoting and carrying out the goals and activities of sections 115A.1312 to
2 115A.1330.

3
4 **Sec. 4. [115A.1316.] REPORTING REQUIREMENTS.**

5 **Subd. 1. Manufacturer's reporting requirements.** (a) By August 1 of each year,
6 beginning in 2006, each manufacturer must report to the department the total weight of video
7 display devices sold to households during the previous program year, including documentation
8 describing how that amount was calculated and certification that the amount is accurate. The
9 department will use this information to verify a manufacturer's annual registration fee, as
10 specified in section 115A.1314, subdivision 1.

11 (b) By August 1 of each year, beginning in 2007, each manufacturer must report to the
12 department the total weight of covered electronic devices collected from households and
13 recycled during the preceding program year. A manufacturer must report separately the total
14 weight of covered electronic devices collected from households located in counties specified in
15 subdivision 1, paragraph (d) and those collected from households located outside those counties.

16 (c) By August 1 of each year, beginning in 2007, each manufacturer must report to the
17 department

18 (1) the number of recycling credits the manufacturer has purchased and sold during the
19 preceding program year;

20 (2) the number of recycling credits possessed by the manufacturer that the manufacturer
21 elects to use in the calculation of its variable recycling fee under section 115A.1314, subdivision
22 1; and

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

25 **Subd. 2. Recycler's reporting requirements.** By August 1 of each year, beginning in
26 2007, a recycler of covered electronic devices must report to the agency and the department the
27 total weight of covered electronic devices recycled during the preceding program year and must
28 certify that the recycler has complied with section 115A.1318, subdivision 2.

29 **Subd. 3. Collector's reporting requirements.** By August 1 of each year, beginning in
30 2007, a collector must report separately to the agency the total pounds of covered electronic
31 devices collected in the counties enumerated in section 115A.1314, subdivision 1, paragraph (d),

1 and all other Minnesota counties, and a list of all recyclers to whom collectors delivered covered
2 electronic devices.

3 **Sec. 5. [115A.1318] RESPONSIBILITIES.**

4 Subd. 1. **Manufacturer's responsibilities.** In addition to fulfilling the requirements of
5 section 115A.1311 to 115A.1330, a manufacturer must comply with the following requirements:

6 (a) A manufacturer must annually recycle or arrange for the collection and recycling of
7 an amount of covered electronic devices equal to the total weight of video display devices sold
8 by the manufacturer during the preceding program year, multiplied by the proportion of sales of
9 video display devices required to be recycled, as established by the agency under section
10 115A.1320, subdivision 1, paragraph (c).

11 (b) The obligations of a manufacturer apply only to video display devices received from
12 households and do not apply to video display devices received from owners other than
13 households.

14 (c) A manufacturer must conduct and document due diligence assessments of collectors
15 and recyclers it contracts with to insure that all recyclers comply with the requirements of
16 subdivision 2. A manufacturer is responsible for maintaining, for a period of three years,
17 documentation that all video display devices recycled, partially recycled, or sent to ~~in~~
18 downstream recycling operations comply with the requirements of subdivision 2.

19 Subd. 2. **Recycler's responsibilities.** (a) A recycler must provide evidence to a
20 manufacturer that the recycler has complied with the following directives with respect to video
21 display devices collected from households:

22 (1) all recycling operations, including downstream recycling operations, must comply
23 with the U.S. Environmental Protection Agency's Plug-In to eCycling Guidelines for Materials
24 Management of electronic wastes;

25 ~~(1)~~(2) no prison labor may be used in the recycling process, except for correctional
26 institutions participating in the Minnesota Computers for Schools program or in a correctional
27 industry established under section 241.27, subdivision 1;

28 ~~(2)~~(3) covered electronic devices or partially recycled covered electronic devices may be
29 exported for further recycling only if the government of the recipient country is notified
30 and consents to shipment prior to export;

1 (3)(4) cables and wires, printed circuit boards, hard drives, chips, and other electronic
2 components may not be deposited in a landfill.

3 (4)(5) a recycler must document the process used to evaluate the environmental, health
4 and safety impact of downstream recyclers' operations;

5 (5)(6) all recycling facilities must possess:

6 (i) liability insurance of no less than \$1 million for releases, accidents and other
7 emergencies;

8 (ii) all licenses from applicable governing authorities;

9 (iii) up-to-date written plans for: environmental health and safety training for
10 employees, hazardous materials identification and management, and reporting and
11 responding to releases and other emergencies; and

12 (iv) a plan for closure and a financial guarantee; and

13 (7) maintain records for a period of three years for all video display devices recycled or
14 sent to downstream recycling operations, including manifests, bills of lading, and chain of
15 custody documentation.

16 (b) Except to the extent otherwise required by law, a recycler has no responsibility for
17 any data that may be on a covered electronic device if an information storage device is included
18 with the device.

19 **Subd. 3. Retailer's responsibilities.** (a) By July 1 of each year, a retailer must report to
20 a manufacturer the number of video display devices labeled with the manufacturer's brand sold
21 to households during the previous program year.

22 (b) A retailer who sells new covered electronic devices shall provide information to
23 households describing where and how they may recycle video display devices and advising them
24 of opportunities and locations for the convenient collection of covered electronic devices for the
25 purpose of recycling. This requirement may be met by providing to households the agency's
26 toll-free number and Web site address. Retailers selling through catalogs or the Internet may
27 meet this requirement by including the information in a prominent location on the retailer's web
28 site.

29 **Sec. 6. [115A.1320] AGENCY AND DEPARTMENT DUTIES.**

30 **Subd. 1. Duties of the agency.** (a) The agency shall administer this chapter.

31 (b) The agency shall establish procedures for:

1 (1) receipt and maintenance of the registration statements and certifications filed with the
2 agency under section 115A.1312; and

3 (2) making the statements and certifications easily available to manufacturers, retailers,
4 and members of the public.

5 (c) The agency shall annually review the value of the following variables which are part
6 of the formula used to calculate a manufacturer's annual registration fee under section
7 115A.1314, subdivision 1: (1) the proportion of sales of video display devices sold to households
8 that manufacturers are required to recycle; (2) the estimated per pound price of recycling covered
9 electronic devices sold to households; (3) the base registration fee; and (4) the multiplier
10 established for the weight of covered electronic devices collected in section 115A.1314,
11 subdivision 1, paragraph (d). If the agency determines that any of these values must be changed
12 in order to improve the efficiency or effectiveness of the activities regulated under sections
13 115A.1312 to 115A. 1330, it shall present those recommendations and the reasons for them to
14 the chairs of the senate and house committees with jurisdiction over solid waste policy.

15 (d) The agency shall annually calculate estimated sales of video display devices sold to
16 households by each manufacturer during the preceding program year based on national sales data
17 and forward the estimates to the department.

18 (e) The agency shall manage the account established in section 115A.1312, subdivision 2.

19 (f) On or before December 1, 2007, and each year thereafter, the agency shall provide a
20 report to the governor and the legislature on the implementation of this chapter. For each
21 program year, the report must discuss the total weight of covered electronic devices recycled and
22 a summary of information in the report submitted by manufacturers and recyclers under section
23 115A.1316. The report must also discuss the various collection programs used by manufacturers
24 to collect covered electronic devices, information regarding covered electronic devices that are
25 being collected by persons other than registered manufacturers, collectors, and recyclers, and
26 information about covered electronic devices, if any, being disposed of in landfills in this state.
27 The report must include a description of enforcement actions under this chapter. The agency
28 may include in its report other information received by the agency regarding the implementation
29 of this chapter.

30 (g) The agency shall promote public participation in the activities regulated under
31 sections 115A.1312 to 115A.1330 through public education and outreach efforts.

1 (h) The agency shall enforce sections 115A.1310 to section 115A. 1330 in the manner
2 provided by sections 115.071, subdivisions 1, 3, 4, 5, and 6; and 116.072, except for those
3 provisions enforced by the department, as provided in subdivision 2. The agency may revoke a
4 registration of a collector or recycler found to have violated this chapter.

5 Subd. 2. **Duties of the department.** (a) The department must collect the data submitted
6 to it annually by each manufacturer on sales of video display devices to households, the weight
7 of covered electronic devices sold to households that is recycled, and data on recycling credits,
8 as required under section 115A.1316. The department must use this data to review each
9 manufacturer's annual registration fee submitted to the department to insure that the fee was
10 calculated accurately according to the formula in section 115A.1314, subdivision 1.

11 (b) The department must enforce section 115A.1314, subdivision 1. The audit,
12 assessment, appeal, collection, enforcement, disclosure, and other administrative provisions of
13 chapters 270B, 270C and 289A that apply to the taxes imposed under chapter 297A apply to the
14 fee imposed under section 115A.1314, subdivision 1. To enforce this subdivision the
15 commissioner of revenue may grant extensions to pay, and impose and abate penalties and
16 interest on, the fee due under section 115A.1314, subdivision 1 in the manner provided in
17 chapters 270C and 289A as if the fee were a tax imposed under chapter 297A.

18 (c) The department may disclose nonpublic data to the agency only when necessary for
19 the efficient and effective administration of the activities regulated under sections 115A.1312 to
20 115A.1330. Any data disclosed by the department to the agency retains the classification it had
21 when in the possession of the department.

22
23 **Sec. 7. [115A.1322.] OTHER RECYCLING PROGRAMS.**

24 A city, county, or other public agency may not require households to use public facilities to
25 recycle their covered electronic devices to the exclusion of other lawful programs available.
26 Nothing in this chapter prohibits or restricts the operation of any program recycling covered
27 electronic devices in addition to those provided by manufacturers, or prohibits or restricts any
28 persons from receiving, collecting, transporting, or recycling covered electronic devices,
29 provided that those persons are registered under section 115A.1312.

30 **Sec. 8. [115A.1324.] REQUIREMENTS FOR PURCHASES BY STATE AGENCIES.**

1 (a) The Department of Administration must ensure that acquisitions of video display
2 devices under chapter 16C are certified by the vendor to be in compliance with sections
3 115A.1312 through 115A.1318.

4 (b) The bid solicitation documents must specify that the prospective bidder is required to
5 cooperate fully in providing reasonable access to its records and documents that evidence
6 compliance with paragraph (a) and sections 115A.1312 through 115A.1318.

7 (c) Any person awarded a contract under chapter 16C for purchase or lease of video
8 display devices that is found to be in violation of paragraph (a) or sections 115A.1312 through
9 115A.1318 is subject to the following sanctions:

10 (1) the contract must be voided;

11 (2) the contractor is ineligible to bid on any state contract for a period of three years; and

12 (3) if the attorney general establishes that any money, property, or benefit was obtained by a
13 contractor as a result of violating paragraph (a) or sections 115A.1312 through 115A.1318, the
14 court may, in addition to any other remedy, order the disgorgement of the unlawfully obtained
15 money, property, or benefit.

16 **Sec. 9. [115A.1326.] REGULATION OF COVERED ELECTRONIC DEVICES.**

17 If the United States Environmental Protection Agency adopts regulations under the Resource
18 Conservation and Recovery Act regarding the handling, storage, or treatment of any type of
19 video display device being recycled, those regulations are automatically effective in this state on
20 the same date and supersede any rules previously adopted by the agency regarding the handling,
21 storage, or treatment of all video display devices being recycled. Sec. 10. [115A.1328.]

22 **MULTISTATE IMPLEMENTATION.**

23 The agency and department are authorized to participate in the establishment and implementation
24 of a regional multistate organization or compact to assist in carrying out the requirements of this
25 chapter.

26 **Sec. 11. [115A.1330.] LIMITATIONS.**

27 This chapter expires if a federal law, or combination of federal laws, takes effect that is
28 applicable to all video display devices sold in the United States and establishes a program for the
29 collection and recycling or reuse of video display devices that is applicable to all video display
30 devices discarded by households.

31 **[EFFECTIVE DATE.]** Sections 1 to 11 are effective the day following final enactment.

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