



Rep. Emily McAsey

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LRB098 15599 MGM 62178 a

1 AMENDMENT TO HOUSE BILL 4042

2 AMENDMENT NO. _____. Amend House Bill 4042 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Electronic Products Recycling and Reuse Act
5 is amended by changing Sections 15, 50, and 80 as follows:

6 (415 ILCS 150/15)

7 Sec. 15. Statewide recycling and reuse goals for all
8 covered electronic devices.

9 (a) For program year 2010, the statewide recycling or reuse
10 goal for all CEDs is the product of: (i) the latest population
11 estimate for the State, as published on the U.S. Census
12 Bureau's website on January 1, 2010; multiplied by (ii) 2.5
13 pounds per capita.

14 (b) For program year 2011, the statewide recycling or reuse
15 goal for all CEDs is the product of: (i) the 2010 base weight;
16 multiplied by (ii) the 2010 goal attainment percentage.

1 For the purposes of this subsection (b):

2 The "2010 base weight" means the greater of: (i) twice the
3 total weight of all CEDs that were recycled or processed for
4 reuse between January 1, 2010 and June 30, 2010 as reported to
5 the Agency under subsection (i) or (j) of Section 30; or (ii)
6 twice the total weight of all CEDs that were recycled or
7 processed for reuse between January 1, 2010 and June 30, 2010
8 as reported to the Agency under subsection (c) of Section 55.

9 The "2010 goal attainment percentage" means:

10 (1) 90% if the 2010 base weight is less than 90% of the
11 statewide recycling or reuse goal for program year 2010;

12 (2) 95% if the 2010 base weight is 90% or greater, but
13 does not exceed 95%, of the statewide recycling or reuse
14 goal for program year 2010;

15 (3) 100% if the 2010 base weight is 95% or greater, but
16 does not exceed 105%, of the statewide recycling or reuse
17 goal for program year 2010;

18 (4) 105% if the 2010 base weight is 105% or greater,
19 but does not exceed 110%, of the statewide recycling or
20 reuse goal for program year 2010; and

21 (5) 110% if the 2010 base weight is 110% or greater of
22 the statewide recycling or reuse goal for program year
23 2010.

24 (c) For program year 2012 and for each of the following
25 categories of electronic devices, each manufacturer shall
26 recycle or reuse at least 40% of the total weight of the

1 electronic devices that the manufacturer sold in that category
2 in Illinois during the calendar year beginning January 1, 2010:
3 computers, monitors, televisions, printers, electronic
4 keyboards, facsimile machines, video cassette recorders,
5 portable digital music players, digital video disc players,
6 video game consoles, electronic mice, scanners, digital
7 converter boxes, cable receivers, satellite receivers, digital
8 video disc recorders, and small-scale servers. To determine the
9 manufacturer's annual recycling or reuse goal, the
10 manufacturer shall use its own Illinois sales data or its own
11 national sales data proportioned to Illinois' share of the U.S.
12 population, based on the U.S. Census population estimate for
13 2009.

14 (c-5) For program year 2013 and thereafter and for each of
15 the following categories of electronic devices, each
16 manufacturer shall recycle or reuse at least 100% ~~50%~~ of the
17 total weight of the electronic devices that the manufacturer
18 sold in that category in Illinois during the calendar year 2
19 years before the applicable program year: computers, monitors,
20 televisions, printers, electronic keyboards, facsimile
21 machines, video cassette recorders, portable digital music
22 players, digital video disc players, video game consoles,
23 electronic mice, scanners, digital converter boxes, cable
24 receivers, satellite receivers, digital video disc recorders,
25 and small-scale servers. To determine the manufacturer's
26 annual recycling or reuse goal, the manufacturer shall use its

1 own Illinois sales data or its own national sales data
2 proportioned to Illinois' share of the U.S. population, based
3 on the most recent U.S. Census data. For the purpose of this
4 Section, a manufacturer may count the total weight of a cathode
5 ray tube device, prior to processing, towards its goal under
6 this Section if all recyclable components are removed from the
7 device and the cathode ray tube glass is managed in a manner
8 that complies with all Agency regulations for handling,
9 treatment, and disposition of cathode ray tubes.

10 (Source: P.A. 97-287, eff. 8-10-11.)

11 (415 ILCS 150/50)

12 Sec. 50. Recycler and refurbisher registration.

13 (a) Prior to January 1 of each program year, each recycler
14 and refurbisher must register with the Agency and submit a
15 registration fee pursuant to subsection (b) for that program
16 year. Registration must be on forms and in a format prescribed
17 by the Agency and shall include, but not be limited to, the
18 address of each location where the recycler or refurbisher
19 manages CEDs or EEDs and identification of each location at
20 which the recycler or refurbisher accepts CEDs or EEDs from a
21 residence.

22 (b) The registration fee for program year 2010 is \$2,000.
23 For program year 2011, if a recycler's or refurbisher's annual
24 combined total weight of CEDs and EEDs is less than 1,000 tons
25 per year, the registration fee shall be \$500. For program year

1 2012 and for all subsequent program years, both registration
2 fees shall be increased each year by an inflation factor
3 determined by the annual Implicit Price Deflator for Gross
4 National Product as published by the U.S. Department of
5 Commerce in its Survey of Current Business. The inflation
6 factor must be calculated each year by dividing the latest
7 published annual Implicit Price Deflator for Gross National
8 Product by the annual Implicit Price Deflator for Gross
9 National Product for the previous year. The inflation factor
10 must be rounded to the nearest 1/100th, and the resulting
11 registration fee must be rounded to the nearest whole dollar.
12 No later than October 1 of each program year, the Agency shall
13 post on its website the registration fee for the next program
14 year.

15 (c) No person may act as a recycler or a refurbisher of
16 CEDs for a manufacturer obligated to meet goals under this Act
17 unless the recycler or refurbisher is registered and has paid
18 the registration fee as required under this Section. Neither a
19 registered recycler nor a refurbisher may charge individual
20 consumers or units of local government acting as collectors a
21 fee to recycle or refurbish CEDs and EEDs, unless the recycler
22 or refurbisher provides (i) a financial incentive, such as a
23 coupon, that is of greater or equal value to the fee being
24 charged or (ii) premium service, such as curbside collection,
25 home pick-up, or a similar method of collection.

26 (d) Recyclers and refurbishers must, at a minimum, comply

1 with all of the following:

2 (1) Recyclers and refurbishers must comply with
3 federal, State, and local laws and regulations, including
4 federal and State minimum wage laws, specifically relevant
5 to the handling, processing, refurbishing and recycling of
6 residential CEDs and must have proper authorization by all
7 appropriate governing authorities to perform the handling,
8 processing, refurbishment, and recycling.

9 (2) Recyclers and refurbishers must implement the
10 appropriate measures to safeguard occupational and
11 environmental health and safety, through the following:

12 (A) environmental health and safety training of
13 personnel, including training with regard to material
14 and equipment handling, worker exposure, controlling
15 releases, and safety and emergency procedures;

16 (B) an up-to-date, written plan for the
17 identification and management of hazardous materials;
18 and

19 (C) an up-to-date, written plan for reporting and
20 responding to exceptional pollutant releases,
21 including emergencies such as accidents, spills,
22 fires, and explosions.

23 (3) Recyclers and refurbishers must maintain (i)
24 commercial general liability insurance or the equivalent
25 corporate guarantee for accidents and other emergencies
26 with limits of not less than \$1,000,000 per occurrence and

1 \$1,000,000 aggregate and (ii) pollution legal liability
2 insurance with limits not less than \$1,000,000 per
3 occurrence for companies engaged solely in the dismantling
4 activities and \$5,000,000 per occurrence for companies
5 engaged in recycling.

6 (4) Recyclers and refurbishers must maintain on file
7 documentation that demonstrates the completion of an
8 environmental health and safety audit completed and
9 certified by a competent internal and external auditor
10 annually. A competent auditor is an individual who, through
11 professional training or work experience, is appropriately
12 qualified to evaluate the environmental health and safety
13 conditions, practices, and procedures of the facility.
14 Documentation of auditors' qualifications must be
15 available for inspection by Agency officials and
16 third-party auditors.

17 (5) Recyclers and refurbishers must maintain on file
18 proof of workers' compensation and employers' liability
19 insurance.

20 (6) Recyclers and refurbishers must provide adequate
21 assurance (such as bonds or corporate guarantee) to cover
22 environmental and other costs of the closure of the
23 recycler or refurbisher's facility, including cleanup of
24 stockpiled equipment and materials.

25 (7) Recyclers and refurbishers must apply due
26 diligence principles to the selection of facilities to

1 which components and materials (such as plastics, metals,
2 and circuit boards) from CEDs and EEDs are sent for reuse
3 and recycling.

4 (8) Recyclers and refurbishers must establish a
5 documented environmental management system that is
6 appropriate in level of detail and documentation to the
7 scale and function of the facility, including documented
8 regular self-audits or inspections of the recycler or
9 refurbisher's environmental compliance at the facility.

10 (9) Recyclers and refurbishers must use the
11 appropriate equipment for the proper processing of
12 incoming materials as well as controlling environmental
13 releases to the environment. The dismantling operations
14 and storage of CED and EED components that contain
15 hazardous substances must be conducted indoors and over
16 impervious floors. Storage areas must be adequate to hold
17 all processed and unprocessed inventory. When heat is used
18 to soften solder and when CED and EED components are
19 shredded, operations must be designed to control indoor and
20 outdoor hazardous air emissions.

21 (10) Recyclers and refurbishers must establish a
22 system for identifying and properly managing components
23 (such as circuit boards, batteries, CRTs, and mercury
24 phosphor lamps) that are removed from CEDs and EEDs during
25 disassembly. Recyclers and refurbishers must properly
26 manage all hazardous and other components requiring

1 special handling from CEDs and EEDs consistent with
2 federal, State, and local laws and regulations. Recyclers
3 and refurbishers must provide visible tracking (such as
4 hazardous waste manifests or bills of lading) of hazardous
5 components and materials from the facility to the
6 destination facilities and documentation (such as
7 contracts) stating how the destination facility processes
8 the materials received. No recycler or refurbisher may
9 send, either directly or through intermediaries, hazardous
10 wastes to solid waste (non-hazardous waste) landfills or to
11 non-hazardous waste incinerators for disposal or energy
12 recovery. For the purpose of these guidelines, smelting of
13 hazardous wastes to recover metals for reuse in conformance
14 with all applicable laws and regulations is not considered
15 disposal or energy recovery.

16 (11) Recyclers and refurbishers must use a regularly
17 implemented and documented monitoring and record-keeping
18 program that tracks inbound CED and EED material weights
19 (total) and subsequent outbound weights (total to each
20 destination), injury and illness rates, and compliance
21 with applicable permit parameters including monitoring of
22 effluents and emissions. Recyclers and refurbishers must
23 maintain contracts or other documents, such as sales
24 receipts, suitable to demonstrate: (i) the reasonable
25 expectation that there is a downstream market or uses for
26 designated electronics (which may include recycling or

1 reclamation processes such as smelting to recover metals
2 for reuse); and (ii) that any residuals from recycling or
3 reclamation processes, or both, are properly handled and
4 managed to maximize reuse and recycling of materials to the
5 extent practical.

6 (12) Recyclers and refurbishers must comply with
7 federal and international law and agreements regarding the
8 export of used products or materials. In the case of
9 exports of CEDs and EEDs, recyclers and refurbishers must
10 comply with applicable requirements of the U.S. and of the
11 import and transit countries and must maintain proper
12 business records documenting its compliance. No recycler
13 or refurbisher may establish or use intermediaries for the
14 purpose of circumventing these U.S. import and transit
15 country requirements.

16 (13) Recyclers and refurbishers that conduct
17 transactions involving the transboundary shipment of used
18 CEDs and EEDs shall use contracts (or the equivalent
19 commercial arrangements) made in advance that detail the
20 quantity and nature of the materials to be shipped. For the
21 export of materials to a foreign country (directly or
22 indirectly through downstream market contractors): (i) the
23 shipment of intact televisions and computer monitors
24 destined for reuse must include only whole products that
25 are tested and certified as being in working order or
26 requiring only minor repair (e.g. not requiring the

1 replacement of circuit boards or CRTs), must be destined
2 for reuse with respect to the original purpose, and the
3 recipient must have verified a market for the sale or
4 donation of such product for reuse; (ii) the shipments of
5 CEDs and EEDs for material recovery must be prepared in a
6 manner for recycling, including, without limitation,
7 smelting where metals will be recovered, plastics recovery
8 and glass-to-glass recycling; or (iii) the shipment of CEDs
9 and EEDs are being exported to companies or facilities that
10 are owned or controlled by the original equipment
11 manufacturer.

12 (14) Recyclers and refurbishers must maintain the
13 following export records for each shipment on file for a
14 minimum of 3 years: (i) the facility name and the address
15 to which shipment is exported; (ii) the shipment contents
16 and volumes; (iii) the intended use of contents by the
17 destination facility; (iv) any specification required by
18 the destination facility in relation to shipment contents;
19 (v) an assurance that all shipments for export, as
20 applicable to the CED manufacturer, are legal and satisfy
21 all applicable laws of the destination country.

22 (15) Recyclers and refurbishers must employ
23 industry-accepted procedures for the destruction or
24 sanitization of data on hard drives and other data storage
25 devices. Acceptable guidelines for the destruction or
26 sanitization of data are contained in the National

1 Institute of Standards and Technology's Guidelines for
2 Media Sanitation or those guidelines certified by the
3 National Association for Information Destruction;

4 (16) No recycler or refurbisher may employ prison labor
5 in any operation related to the collection,
6 transportation, recycling, and refurbishment of CEDs and
7 EEDs. No recycler or refurbisher may employ any third party
8 that uses or subcontracts for the use of prison labor.

9 (Source: P.A. 96-1154, eff. 7-21-10; 97-287, eff. 8-10-11.)

10 (415 ILCS 150/80)

11 Sec. 80. Penalties.

12 (a) Except as otherwise provided in this Act, any person
13 who violates any provision of this Act or fails to perform any
14 duty under this Act is liable for a civil penalty of \$7,000 for
15 the violation and an additional civil penalty not to exceed
16 \$1,000 for each day the violation continues.

17 (b) A manufacturer that is not registered with the Agency
18 as required under this Act, or that has not paid the
19 registration fee as required under this Act, is liable for a
20 civil penalty not to exceed \$10,000 for the violation and an
21 additional civil penalty not to exceed \$10,000 for each day the
22 violation continues.

23 (c) A manufacturer in violation of subsection (d) of
24 Section 30 of this Act in program year 2012 or thereafter is
25 liable for a civil penalty equal to the following:

1 (1) In program year 2012, if the total weight of CEDs
2 and EEDs recycled or processed for reuse by the
3 manufacturer is less than 50% of the manufacturer's
4 individual recycling or reuse goal set forth in subsection
5 (c) of Section 15 of this Act, the manufacturer shall pay a
6 penalty equal to the product of: (i) \$0.70 per pound;
7 multiplied by (ii) the difference between the
8 manufacturer's individual recycling or reuse goal and the
9 total weight of CEDs and EEDs recycled or processed for
10 reuse by the manufacturer during the program year.

11 (2) In program year 2013, if the total weight of CEDs
12 and EEDs recycled or processed for reuse by the
13 manufacturer is less than 60% of the manufacturer's
14 individual recycling or reuse goal set forth in subsection
15 (c-5) of Section 15 of this Act, the manufacturer shall pay
16 a penalty equal to the product of: (i) \$0.70 per pound;
17 multiplied by (ii) the difference between the
18 manufacturer's individual recycling or reuse goal and the
19 total weight of CEDs and EEDs recycled or processed for
20 reuse by the manufacturer during the program year.

21 (3) In program year 2014, and each year thereafter, if
22 the total weight of CEDs and EEDs recycled or processed for
23 reuse by the manufacturer is less than 100% ~~70%~~ of the
24 manufacturer's individual recycling or reuse goal set
25 forth in subsection (c-5) of Section 15 of this Act, the
26 manufacturer shall pay a penalty equal to the product of:

1 (i) \$0.70 per pound; multiplied by (ii) the difference
2 between the manufacturer's individual recycling or reuse
3 goal and the total weight of CEDs and EEDs recycled or
4 processed for reuse by the manufacturer during the program
5 year.

6 (d) A manufacturer in violation of subsection (e), (h),
7 (i), (j), (k), (l), or (m) of Section 30 is liable for a civil
8 penalty not to exceed \$5,000 for the violation.

9 (e) Any person in violation of Section 50 of this Act is
10 liable for a civil penalty not to exceed \$5,000 for the
11 violation.

12 (f) A knowing violation of subsection (a), (b), or (c) of
13 Section 95 of this Act by anyone other than a residential
14 consumer is a petty offense punishable by a fine of \$500. A
15 knowing violation of subsection (a), (b), or (c) of Section 95
16 of this Act by a residential consumer is a petty offense
17 punishable by a fine of \$25 for a first violation; however, a
18 subsequent violation by a residential consumer is a petty
19 offense punishable by a fine of \$50.

20 (g) The penalties provided for in this Act may be recovered
21 in a civil action brought by the Attorney General in the name
22 of the People of the State of Illinois. Any moneys collected
23 under this Section in which the Attorney General has prevailed
24 may be deposited into the Electronic Recycling Fund,
25 established under this Act.

26 (h) The Attorney General, at the request of the Agency or

1 on his or her own motion, may institute a civil action for an
2 injunction, prohibitory or mandatory, to restrain violations
3 of this Act or to require such actions as may be necessary to
4 address violations of this Act.

5 (i) The penalties and injunctions provided in this Act are
6 in addition to any penalties, injunctions, or other relief
7 provided under any other law. Nothing in this Act bars a cause
8 of action by the State for any other penalty, injunction, or
9 relief provided by any other law.

10 (j) A fine imposed by administrative citation pursuant to
11 subsection (k) of Section 20 shall be limited to \$1,000.
12 Administrative citations may be used to enforce violations of
13 the landfill ban subject to fines set forth in subsection (f)
14 of this Section.

15 (Source: P.A. 97-287, eff. 8-10-11.)

16 Section 99. Effective date. This Act takes effect January
17 1, 2015."