



Rep. Emily McAsey

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LRB099 05771 MGM 31010 a

1 AMENDMENT TO HOUSE BILL 1455

2 AMENDMENT NO. _____. Amend House Bill 1455 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 80% ~~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.

19 (c-5) A Neither a registered recycler or nor a refurbisher
20 of CEDs and EEDs for a manufacturer obligated to meet goals
21 under this Act may not charge individual consumers or units of
22 local government acting as collectors a fee to recycle or
23 refurbish CEDs and EEDs, unless the recycler or refurbisher
24 provides (i) a financial incentive, such as a coupon, that is
25 of greater or equal value to the fee being charged or (ii)
26 premium service, such as curbside collection, home pick-up, or

1 a similar methods ~~method~~ of collection.

2 (c-7) Nothing in this Act prohibits any waste hauler from
3 entering into a contractual agreement with a unit of local
4 government to establish a collection program for the recycling
5 or reuse of CEDs or EEDs, including services such as curbside
6 collection, home pick-up, drop-off locations, or similar
7 methods of collection.

8 (d) Recyclers and refurbishers must, at a minimum, comply
9 with all of the following:

10 (1) Recyclers and refurbishers must comply with
11 federal, State, and local laws and regulations, including
12 federal and State minimum wage laws, specifically relevant
13 to the handling, processing, refurbishing and recycling of
14 residential CEDs and must have proper authorization by all
15 appropriate governing authorities to perform the handling,
16 processing, refurbishment, and recycling.

17 (2) Recyclers and refurbishers must implement the
18 appropriate measures to safeguard occupational and
19 environmental health and safety, through the following:

20 (A) environmental health and safety training of
21 personnel, including training with regard to material
22 and equipment handling, worker exposure, controlling
23 releases, and safety and emergency procedures;

24 (B) an up-to-date, written plan for the
25 identification and management of hazardous materials;
26 and

1 (C) an up-to-date, written plan for reporting and
2 responding to exceptional pollutant releases,
3 including emergencies such as accidents, spills,
4 fires, and explosions.

5 (3) Recyclers and refurbishers must maintain (i)
6 commercial general liability insurance or the equivalent
7 corporate guarantee for accidents and other emergencies
8 with limits of not less than \$1,000,000 per occurrence and
9 \$1,000,000 aggregate and (ii) pollution legal liability
10 insurance with limits not less than \$1,000,000 per
11 occurrence for companies engaged solely in the dismantling
12 activities and \$5,000,000 per occurrence for companies
13 engaged in recycling.

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

25 (5) Recyclers and refurbishers must maintain on file
26 proof of workers' compensation and employers' liability

1 insurance.

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

7 (7) Recyclers and refurbishers must apply due
8 diligence principles to the selection of facilities to
9 which components and materials (such as plastics, metals,
10 and circuit boards) from CEDs and EEDs are sent for reuse
11 and recycling.

12 (8) Recyclers and refurbishers must establish a
13 documented environmental management system that is
14 appropriate in level of detail and documentation to the
15 scale and function of the facility, including documented
16 regular self-audits or inspections of the recycler or
17 refurbisher's environmental compliance at the facility.

18 (9) Recyclers and refurbishers must use the
19 appropriate equipment for the proper processing of
20 incoming materials as well as controlling environmental
21 releases to the environment. The dismantling operations
22 and storage of CED and EED components that contain
23 hazardous substances must be conducted indoors and over
24 impervious floors. Storage areas must be adequate to hold
25 all processed and unprocessed inventory. When heat is used
26 to soften solder and when CED and EED components are

1 shredded, operations must be designed to control indoor and
2 outdoor hazardous air emissions.

3 (10) Recyclers and refurbishers must establish a
4 system for identifying and properly managing components
5 (such as circuit boards, batteries, CRTs, and mercury
6 phosphor lamps) that are removed from CEDs and EEDs during
7 disassembly. Recyclers and refurbishers must properly
8 manage all hazardous and other components requiring
9 special handling from CEDs and EEDs consistent with
10 federal, State, and local laws and regulations. Recyclers
11 and refurbishers must provide visible tracking (such as
12 hazardous waste manifests or bills of lading) of hazardous
13 components and materials from the facility to the
14 destination facilities and documentation (such as
15 contracts) stating how the destination facility processes
16 the materials received. No recycler or refurbisher may
17 send, either directly or through intermediaries, hazardous
18 wastes to solid waste (non-hazardous waste) landfills or to
19 non-hazardous waste incinerators for disposal or energy
20 recovery. For the purpose of these guidelines, smelting of
21 hazardous wastes to recover metals for reuse in conformance
22 with all applicable laws and regulations is not considered
23 disposal or energy recovery.

24 (11) Recyclers and refurbishers must use a regularly
25 implemented and documented monitoring and record-keeping
26 program that tracks inbound CED and EED material weights

1 (total) and subsequent outbound weights (total to each
2 destination), injury and illness rates, and compliance
3 with applicable permit parameters including monitoring of
4 effluents and emissions. Recyclers and refurbishers must
5 maintain contracts or other documents, such as sales
6 receipts, suitable to demonstrate: (i) the reasonable
7 expectation that there is a downstream market or uses for
8 designated electronics (which may include recycling or
9 reclamation processes such as smelting to recover metals
10 for reuse); and (ii) that any residuals from recycling or
11 reclamation processes, or both, are properly handled and
12 managed to maximize reuse and recycling of materials to the
13 extent practical.

14 (12) Recyclers and refurbishers must comply with
15 federal and international law and agreements regarding the
16 export of used products or materials. In the case of
17 exports of CEDs and EEDs, recyclers and refurbishers must
18 comply with applicable requirements of the U.S. and of the
19 import and transit countries and must maintain proper
20 business records documenting its compliance. No recycler
21 or refurbisher may establish or use intermediaries for the
22 purpose of circumventing these U.S. import and transit
23 country requirements.

24 (13) Recyclers and refurbishers that conduct
25 transactions involving the transboundary shipment of used
26 CEDs and EEDs shall use contracts (or the equivalent

1 commercial arrangements) made in advance that detail the
2 quantity and nature of the materials to be shipped. For the
3 export of materials to a foreign country (directly or
4 indirectly through downstream market contractors): (i) the
5 shipment of intact televisions and computer monitors
6 destined for reuse must include only whole products that
7 are tested and certified as being in working order or
8 requiring only minor repair (e.g. not requiring the
9 replacement of circuit boards or CRTs), must be destined
10 for reuse with respect to the original purpose, and the
11 recipient must have verified a market for the sale or
12 donation of such product for reuse; (ii) the shipments of
13 CEDs and EEDs for material recovery must be prepared in a
14 manner for recycling, including, without limitation,
15 smelting where metals will be recovered, plastics recovery
16 and glass-to-glass recycling; or (iii) the shipment of CEDs
17 and EEDs are being exported to companies or facilities that
18 are owned or controlled by the original equipment
19 manufacturer.

20 (14) Recyclers and refurbishers must maintain the
21 following export records for each shipment on file for a
22 minimum of 3 years: (i) the facility name and the address
23 to which shipment is exported; (ii) the shipment contents
24 and volumes; (iii) the intended use of contents by the
25 destination facility; (iv) any specification required by
26 the destination facility in relation to shipment contents;

1 (v) an assurance that all shipments for export, as
2 applicable to the CED manufacturer, are legal and satisfy
3 all applicable laws of the destination country.

4 (15) Recyclers and refurbishers must employ
5 industry-accepted procedures for the destruction or
6 sanitization of data on hard drives and other data storage
7 devices. Acceptable guidelines for the destruction or
8 sanitization of data are contained in the National
9 Institute of Standards and Technology's Guidelines for
10 Media Sanitation or those guidelines certified by the
11 National Association for Information Destruction;

12 (16) No recycler or refurbisher may employ prison labor
13 in any operation related to the collection,
14 transportation, recycling, and refurbishment of CEDs and
15 EEDs. No recycler or refurbisher may employ any third party
16 that uses or subcontracts for the use of prison labor.

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

18 (415 ILCS 150/80)

19 Sec. 80. Penalties.

20 (a) Except as otherwise provided in this Act, any person
21 who violates any provision of this Act or fails to perform any
22 duty under this Act is liable for a civil penalty of \$7,000 for
23 the violation and an additional civil penalty not to exceed
24 \$1,000 for each day the violation continues.

25 (b) A manufacturer that is not registered with the Agency

1 as required under this Act, or that has not paid the
2 registration fee as required under this Act, is liable for a
3 civil penalty not to exceed \$10,000 for the violation and an
4 additional civil penalty not to exceed \$10,000 for each day the
5 violation continues.

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

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

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

1 total weight of CEDs and EEDs recycled or processed for
2 reuse by the manufacturer during the program year.

3 (3) In program year 2014, ~~and each year thereafter~~, if
4 the total weight of CEDs and EEDs recycled or processed for
5 reuse by the manufacturer is less than 70% of the
6 manufacturer's individual recycling or reuse goal set
7 forth in subsection (c-5) of Section 15 of this Act, the
8 manufacturer shall pay a penalty equal to the product of:
9 (i) \$0.70 per pound; multiplied by (ii) the difference
10 between the manufacturer's individual recycling or reuse
11 goal and the total weight of CEDs and EEDs recycled or
12 processed for reuse by the manufacturer during the program
13 year.

14 (4) In program year 2015, and each year thereafter, if
15 the total weight of CEDs and EEDs recycled or processed for
16 reuse by the manufacturer is less than 100% of the
17 manufacturer's individual recycling or reuse goal set
18 forth in subsection (c-5) of Section 15 of this Act, the
19 manufacturer shall pay a penalty equal to the product of
20 (i) \$0.70 per pound; multiplied by (ii) the difference
21 between the manufacturer's individual recycling or reuse
22 goal and the total weight of CEDs and EEDs recycled or
23 processed for reuse by the manufacturer during the program
24 year.

25 (d) A manufacturer in violation of subsection (e), (h),
26 (i), (j), (k), (l), or (m) of Section 30 is liable for a civil

1 penalty not to exceed \$5,000 for the violation.

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

5 (f) A knowing violation of subsection (a), (b), or (c) of
6 Section 95 of this Act by anyone other than a residential
7 consumer is a petty offense punishable by a fine of \$500. A
8 knowing violation of subsection (a), (b), or (c) of Section 95
9 of this Act by a residential consumer is a petty offense
10 punishable by a fine of \$25 for a first violation; however, a
11 subsequent violation by a residential consumer is a petty
12 offense punishable by a fine of \$50.

13 (g) The penalties provided for in this Act may be recovered
14 in a civil action brought by the Attorney General in the name
15 of the People of the State of Illinois. Any moneys collected
16 under this Section in which the Attorney General has prevailed
17 may be deposited into the Electronic Recycling Fund,
18 established under this Act.

19 (h) The Attorney General, at the request of the Agency or
20 on his or her own motion, may institute a civil action for an
21 injunction, prohibitory or mandatory, to restrain violations
22 of this Act or to require such actions as may be necessary to
23 address violations of this Act.

24 (i) The penalties and injunctions provided in this Act are
25 in addition to any penalties, injunctions, or other relief
26 provided under any other law. Nothing in this Act bars a cause

1 of action by the State for any other penalty, injunction, or
2 relief provided by any other law.

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

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

9 Section 99. Effective date. This Act takes effect upon
10 becoming law."