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## HOUSE BILL NO. 1533

Offered January 18, 2008

A BILL to amend the Code of Virginia by adding in Chapter 14 of Title 10.1 an article numbered 3.6, consisting of sections numbered 10.1-1425.27 through 10.1-1425.41, relating to television recycling programs.

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 Referred to Committee on Agriculture, Chesapeake and Natural Resources
 

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**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 14 of Title 10.1 an article numbered 3.6, consisting of sections numbered 10.1-1425.27 through 10.1-1425.41, as follows:**

*Article 3.6.**Television Waste Recycling Act.**§ 10.1-1425.27. Definitions.*

"Authorized recycler" means a person who (i) engages in the manual or mechanical separation of covered television electronic devices to recover components and commodities contained therein for the purpose of reuse or recycling or (ii) changes the physical or chemical composition of a covered television electronic device by deconstructing, size reduction, crushing, cutting, sawing, compacting, shredding, or refining for the purpose of segregating components, and for the purpose of recovering or recycling those components, and who arranges for the transport of those components to an end user.

"Brand" means symbols, words, or marks that identify a covered television electronic device, rather than any of its components.

"Cathode ray tube" means an intact glass tube used to provide the visual display in televisions, computer monitors, and oscilloscopes and similar scientific equipment, but does not include the other components of an electronic product containing a cathode ray tube even if the product and the cathode ray tube are disassembled.

"Consumer" means an individual who purchases a covered television electronic device in a transaction that is a retail sale for use in the individual's private residence.

"Covered television electronic device" means a television sold to a consumer. A covered television electronic device shall not include any of the following: (i) an electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle; (ii) an electronic device that is functionally or physically a part of a larger piece of equipment designed and intended for use in an industrial, commercial, or medical setting, including diagnostic, monitoring, or control equipment; (iii) an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or (iv) a telephone of any type unless it contains a video display area greater than four inches measured diagonally.

"Department" means the Department of Environmental Quality.

"Manufacturer" means any person (i) who manufactures covered television electronic devices under a brand that it owns or is licensed to use, other than a license to manufacture covered television electronic devices for delivery exclusively to or at the order of the licensor; (ii) who sells covered television electronic devices manufactured by others under a brand that the seller owns or is licensed to use, other than a license to manufacture covered television electronic devices for delivery exclusively to or at the order of the licensor; (iii) who manufactures covered television electronic devices without affixing a brand; (iv) who manufactures covered television electronic devices to which the person affixes a brand that the person neither owns or owned nor is or was licensed to use; or (v) for whose account covered television electronic devices manufactured outside the United States are imported into the United States, provided however, if, at the time such covered television electronic devices are imported into the United States, another person has registered as the manufacturer of the brand of the covered television electronic devices pursuant to § 10.1-1425.28, then this clause shall not apply. Manufacturer does not include a person that merely owns a brand or trademark and licenses that brand or trademark but does not manufacture or sell covered television electronic devices.

"Market share" means a manufacturer's prior year's sales within the Commonwealth, in pounds, of covered television electronic devices expressed as a percentage of the total of all manufacturers' prior year's sales, in pounds, for all covered television electronic devices based on data that is publicly available.

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59 "Program year" means a full calendar year beginning on or after January 1, 2010.

60 "Purchase" means the taking, by sale, of title in exchange for consideration.

61 "Recycling" means any process by which materials which would otherwise become solid waste are  
62 separated or processed and returned to the economic mainstream in the form of raw materials or  
63 products. Recycling shall not include energy recovery or energy generation by means of incinerating  
64 electronic waste whether apart or in combination with other wastes.

65 "Registrant" means a manufacturer of covered television electronic devices that is in full compliance  
66 with the requirements of this act.

67 "Retail sales" means the sale of covered television electronic devices through sales outlets, via the  
68 Internet, mail order, or other means, whether or not the retailer has a physical presence in this state.

69 "Retailer" means a person who owns or operates a business that sells new covered television  
70 electronic devices in this state by any means to a consumer.

71 "Sale" or "sell" means any transfer for consideration of title, including, but not limited to,  
72 transactions conducted through sales outlets, catalogs, or the Internet, or any other, similar electronic  
73 means, and excluding leases.

74 "Television" means a stand-alone display system containing a cathode ray tube or any other type of  
75 display primarily intended to receive video programming via broadcast, having a viewable area greater  
76 than four inches measured diagonally, able to adhere to standard consumer video formats, and having  
77 the capability of selecting different broadcast channels and support sound capability.

78 § 10.1-1425.28. Registration for manufacturers of televisions; fee.

79 A. Beginning on January 1, 2009, and each January 1 thereafter, each manufacturer offering for sale  
80 or for delivery in this state shall register with the Department and pay a registration fee of \$5,000.  
81 Each manufacturer's registration and renewal shall include a list of all of the brands under which its  
82 televisions are sold, regardless of whether the brand is owned or licensed.

83 B. Each registered manufacturer shall submit an annual renewal of its registration to the Department  
84 and pay to the Department a registration renewal fee of \$5,000 by January 1 of each program year.  
85 Each manufacturer's renewal shall include an annual report.

86 C. In addition to reporting all brands under which its televisions are sold, regardless of whether the  
87 brand is owned or licensed, the manufacturer's annual report shall include the total weight of all  
88 televisions sold in the state in the previous program year. In lieu of providing this information, a  
89 registered manufacturer may request the Department to calculate the total weight of new televisions sold  
90 in the state by using prorated national sales data based on state population.

91 D. A manufacturer shall inform the Department, in writing, as soon as it becomes aware that it will  
92 cease selling televisions in the Commonwealth.

93 E. By January 1, 2010, each manufacturer shall finance a statewide television recycling program to  
94 transport and recycle televisions pursuant to § 10.1-1425.29. The statewide recycling program shall  
95 accept all types and all brands of televisions.

96 § 10.1-1425.29. Television recycling and management programs; manufacturer's payments.

97 A. Beginning January 1, 2010, and each year thereafter, each manufacturer shall pay to the  
98 Department its portion of the reasonable costs incurred by an authorized recycler for the transportation  
99 and recycling of televisions based on the manufacturer's market share multiplied by the total, in pounds,  
100 of televisions collected under the television recycling and management programs pursuant to subsection  
101 B of this section.

102 B. By July 1, 2009, the Department shall establish criteria for county or city television recycling and  
103 management programs. The county or city shall maintain records of the weight, in pounds, of televisions  
104 collected and recycled and report to the Department the name and address of each authorized recycler  
105 and the number of pounds of televisions delivered to each authorized recycler. The Department shall  
106 make payments to the county or city based upon the costs incurred by each county or city for its  
107 television recycling and management program.

108 In those instances where a county or city television recycling and management program has not been  
109 adopted, the Department shall establish a television recycling and management program. The  
110 Department shall identify, and enter into agreements with, authorized television recyclers who shall be  
111 authorized to accept televisions from county and city collection sites. The Department shall require the  
112 county or city to maintain records of the volume of televisions collected by each authorized recycler.  
113 The Department may make payments for the recycling of televisions to an authorized television recycler  
114 upon receipt of a completed and verified invoice submitted to the Department by the authorized recycler  
115 in the form and manner determined by the Department. The Department may determine a per-pound  
116 payment for the recycling and proper disposal of a television pursuant to the program.

117 C. Covered television electronic devices shall not be sent to prisons for recycling either directly or  
118 through intermediaries and nothing in this section shall be construed to allow for the recycling of  
119 covered television electronic devices by prisoners. Any person committed to a jail, prison, or other  
120 institution for the detention of persons charged with or convicted of an offense shall be disqualified from

being an authorized recycler.

D. The Department may suspend the registration of any manufacturer in arrears for more than 90 days. A manufacturer that has had its registration suspended pursuant to this subsection shall demonstrate that all past due payments and a penalty equivalent to 10 percent of the past due payments has been paid to the Department prior to seeking reinstatement of its registration.

§ 10.1-1425.30. Television Recycling and Management Program Fund; established; purpose of Fund.

All moneys collected from registration and renewal fees paid pursuant to § 10.1-1425.28 and market share payments made pursuant subsection A of § 10.1-1425.29 shall be paid into the treasury and credited to a special nonreverting fund known as the Television Recycling and Management Program Fund (the Fund), which is hereby established. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund shall not revert to the general fund but shall remain in the Fund. Interest earned on such moneys shall remain in the Fund and be credited to it. The Director is authorized to release money from the Fund on warrants issued by the Comptroller solely for the following purposes and no others:

1. To make payments to counties or cities based upon the costs incurred by each county and municipality for its television recycling and management program.

2. To provide funding for a state television recycling and management program, including the administrative expenses thereof; and

3. To make payments to authorized recyclers for the recycling of televisions.

§ 10.1-1425.31. Affixing labels.

Beginning on January 1, 2009, a manufacturer or retailer may not sell or offer for sale a covered television electronic device in the Commonwealth unless the covered television electronic device is labeled with a brand that is either owned by or licensed to the manufacturer, and the label is permanently affixed and readily visible.

§ 10.1-1425.32. Retailer responsibilities.

A retailer shall provide information provided by the Department that describes where and how to recycle the covered television electronic device and opportunities and locations for the collection or return of the device, through the use of a toll-free telephone number and website, information included in the packaging, or information provided accompanying the sale of the covered television electronic device.

Beginning January 1, 2010, a retailer shall only sell products from registered manufacturers. Retailers shall consult the list posted on the Department's website pursuant to § 10.1-1425.33 prior to selling covered television electronic devices in the Commonwealth. A retailer shall be considered to have complied with this responsibility if on the date that the product was ordered from the manufacturer or its agent, the manufacturer was listed as being in compliance on the aforementioned website.

§ 10.1-1425.33. Department responsibilities; maintain website with recycling locations.

A. The Department shall maintain an Internet website and toll-free number complete with up-to-date listings of where consumers can bring covered television electronic devices for recycling under the provisions of this act.

B. The Department shall not be held financially liable or responsible for any violation of federal, state, or local law by any person to whom the Department makes payment pursuant to § 10.1-1425.34.

C. The Department shall annually review, at a public hearing, the covered television electronic device recycling rate and registration fees.

D. No fees or costs may be charged to consumers for the transportation or recycling of covered television electronic devices.

§ 10.1-1425.34. Competitive bidding.

A. The Department shall engage in competitive bidding for the transportation and recycling of covered television electronic devices in accordance with the procedures concerning the awarding of public contracts.

B. The Department shall make payments for the transportation and recycling of covered television electronic devices to an authorized or approved person, pursuant to this section, upon receipt of a completed and verified invoice submitted to the Department in the form and manner determined by the Department.

In order to receive payment, proof will be required that:

1. The covered television electronic device was collected from a consumer who is a resident of the Commonwealth or is otherwise located in the Commonwealth, or who provides evidence that the device was purchased in the Commonwealth after the effective date of this act;

2. The transportation and recycling of the covered television electronic device was conducted in accordance with all federal, state, and local laws, including the requirements established under this act, and any rules or regulations adopted pursuant thereto; and

3. No fees or costs were charged to the consumer.

§ 10.1-1425.35. Environmental standards for recycling; Department to determine compliance.

Covered television electronic devices collected through any program in the Commonwealth, whether by manufacturers, retailers, for-profit or not-for profit corporations, or units of government, or organized by the Department, shall be recycled in a manner that is in compliance with all applicable federal, state, and local laws, regulations, and ordinances, and shall not be exported for disposal in a manner that poses a significant risk to the public health or the environment.

The Department shall establish performance requirements in order for transporters and recyclers to be eligible to receive funds from the Department. Every transporter and recycler shall, at a minimum, demonstrate compliance with the United States Environmental Protection Agency's Plug-In to eCycling Guidelines for Materials Management as issued and available on the United States Environmental Protection Agency's website in addition to any other requirements mandated by federal or state law. The Department shall maintain a website that shall include a list of transporters and recyclers that it has determined have met these performance requirements.

§ 10.1-1425.36. Disposal ban.

On and after January 1, 2010, no person shall knowingly dispose of a used covered television electronic device, or any of the components or subassemblies thereof, as solid waste.

§ 10.1-1425.37. Enforcement.

The Attorney General and the Department shall be authorized to initiate independent action to enforce any provision of this act, including failure by a manufacturer to remit the fees required pursuant to §§ 10.1-1425.28 and 10.1-1425.29 to the Department. Any funds awarded by the court shall be used first to offset enforcement expenses. Money in excess of the enforcement expenses shall be deposited into a separate account, and shall be dedicated for use by the Department solely for the purposes of administering and enforcing the provisions of this act and any rules or regulations adopted pursuant thereto.

Violations of the act include, but are not limited to:

1. The sale of a new covered television electronic device by any person that is not in full compliance with the provisions of this act;

2. The application for compensation for the transportation and recycling of covered television electronic devices not collected within the Commonwealth as provided in § 10.1-1425.34;

3. The use of a qualified collection program to recycle covered television electronic devices not discarded within the Commonwealth as provided in § 10.1-1425.34;

4. The knowing failure to report or accurately report any data required to be reported to the Department pursuant to this act; and

5. The nonpayment of any fee required pursuant to this act.

§ 10.1-1425.38. Department to promulgate regulations.

The Department shall promulgate regulations as are necessary to effectuate the purposes of this act. The Department may, in accordance with a fee schedule adopted as a regulation, establish and charge reasonable fees for any of the services to be performed in connection with this act, which shall cover the full costs incurred by the Department for the review of plans and for other costs incurred by the Department for implementation of this act.

§ 10.1-1425.39. Interstate cooperation.

The Department is authorized to participate in the establishment and implementation of a regional, multistate organization or compact that is consistent with the requirements of this act.

§ 10.1-1425.40. Impact of federal recycling program.

This act is intended to govern all aspects of the transportation and recycling of covered television electronic devices as those terms are defined in this act. Upon a determination by the Department of an equivalent national program to collect or recycle covered television electronic devices, the Department shall notify, in writing, the Governor, the Joint Commission on Technology and Science, and the General Assembly.

The provisions of this act shall expire 60 days after the date of the notification required pursuant to this section or within the timeframe provided by federal law, as appropriate.

§ 10.1-1425.41. Department to report on local recycling programs.

By January 1, 2013, the Department shall prepare a report, which shall be posted on the Department's website, assessing the success or failure of the electronic waste management system implemented pursuant to the provisions of this act relative to the statutory management of covered television electronic devices in other states, including localities that have adopted a producer responsibility model versus those that have adopted an advance recovery fee approach, or both, with respect to the recycling of televisions and other covered television electronic devices.