**A** **BILL**

TO AMEND CHAPTER 60, TITLE 48, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MANUFACTURER RESPONSIBILITY FOR THE RECOVERY AND RECYCLING OF CERTAIN ELECTRONIC WASTE, SO AS TO ADD AND CHANGE DEFINITIONAL TERMS; TO REQUIRE MANUFACTURERS OF COVERED DEVICES TO OFFER AN ELECTRONIC WASTE RECOVERY PROGRAM AND TO ESTABLISH MINIMUM REQUIREMENTS OF SUCH RECOVERY PROGRAMS; TO ESTABLISH TELEVISION AND COMPUTER MONITOR COLLECTION SITE CONVENIENCE STANDARDS BASED ON COUNTY POPULATION; TO REQUIRE TELEVISION AND COMPUTER MONITOR MANUFACTURERS TO SUBMIT AN ANNUAL MANUFACTURER RECOVERY PLAN TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL FOR REVIEW AND APPROVAL AND TO ESTABLISH MINIMUM PLAN REQUIREMENTS; TO ALLOW MANUFACTURER CLEARINGHOUSES, ACTING ON BEHALF OF CERTAIN MANUFACTURERS, TO COMPLY WITH THE CHAPTER’S PROVISIONS AND TO ESTABLISH CERTAIN REQUIREMENTS APPLICABLE TO MANUFACTURER CLEARINGHOUSES; TO SET FORTH POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL; TO CREATE AND CHANGE CERTAIN FEES AND PENALTIES; TO PROVIDE FOR PERIODIC REVIEW OF THE CHAPTER’S PROVISIONS BY A STAKEHOLDER GROUP; AND FOR OTHER PURPOSES; AND TO REPEAL SECTION 14 OF ACT 129 OF 2014, AS AMENDED, RELATING TO A SUNSET PROVISION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Chapter 60, Title 48 of the 1976 Code is amended to read:

“CHAPTER 60

South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act

Section 48‑60‑05. This chapter may be cited as the ‘South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act’.

Section 48‑60‑10. The General Assembly finds:

(1) Televisions, computing, and printing devices are critical to the development of this state’s economy and the promotion of the quality of life of the citizens of this State.

(2) Many of these televisions, computing, and printing devices can be refurbished and reused, or recycled.

(3) Developing and implementing a system for recovering televisions, computing, and printing devices promotes resource conservation, public health, public safety, and economic prosperity.

(4) In order to carry out these purposes, the State must establish a comprehensive and convenient recovery program for televisions, computing, and printing devices based on individual manufacturer responsibility and shared responsibility among consumers, retailers, and government, and that the program must ensure that end‑of‑life televisions, computing, and printing devices are disposed of in a manner that promote resource conservation through the development of an effective and efficient system for collection and recycling, and to encourage manufacturers to offer convenient collection and recycling service to consumers at no charge.

Section 48‑60‑20. As used in this chapter:

(1) ‘Collect’ or ‘collection’ means to facilitate the delivery of a covered device to a collection site included in the manufacturer’s program, and to transport the covered device for recovery.

(2) ‘Collector’ means a person who collects residential covered devices at any program collection site or one‑day collection event and prepares them for transport.

(3) ‘Computer device’, often referred to as a ‘personal computer’ or ‘PC’, means a desktop, notebook or tablet computer, or a printing device as further defined below and used only in a residence, but does not mean an automated typewriter, mobile telephone, portable hand‑held calculator, portable digital assistant (PDA), MP3 player, or other similar device. ‘Computer device’ does not include computer peripherals, commonly known as cables, mouse, or keyboard. ‘Computer device’ is further defined as follows in this item:

(a) ‘Desktop computer’ means an electronic, magnetic, optical, electrochemical, or other high‑speed data processing device performing logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained therein, and that is not designed to exclusively perform a specific type of logical, arithmetic, or storage function or other limited or specialized application. Human interface with a desktop computer is achieved through a stand‑alone keyboard, stand‑alone monitor, or other display unit, and a stand‑alone mouse or other pointing device, and is designed for a single user. A desktop computer has a main unit that is intended to be persistently located in a single location, often on a desk or on the floor. A desktop computer is not designed for portability and generally utilizes an external monitor, keyboard, and mouse with an external or internal power supply for a power source. Desktop computer does not include an automated typewriter or typesetter.

(b) ‘Notebook computer’ means an electronic, magnetic, optical, electrochemical, or other high‑speed data processing device performing logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained therein, and that is not designed to exclusively perform a specific type of logical, arithmetic, or storage function or other limited or specialized application. Human interface with a notebook computer is achieved through a keyboard, video display greater than four inches in size, and mouse or other pointing device, all of which are contained within the construction of the unit that comprises the notebook computer; supplemental stand‑alone interface devices typically also can be attached to the notebook computer. Notebook computers can use external, internal, or batteries for a power source. Notebook computer does not include a portable hand‑held calculator, or a portable digital assistant or similar specialized device. A notebook computer has an incorporated video display greater than four inches in size and can be carried as one unit by an individual. A notebook computer is sometimes referred to as a laptop computer.

(c) ‘Tablet computer’ means an electronic, magnetic, optical, electrochemical, or other high‑speed data processing device performing logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained therein, and that is not designed to exclusively perform a specific type of logical, arithmetic, or storage function or other limited or specialized application. Human interface with a tablet computer is achieved through a touch screen and video display screen greater than six inches in size (all of which are contained within the unit that comprises the tablet computer). Tablet computers may use an external or internal power source. Tablet computer does not include a portable hand‑held calculator, a portable digital assistant, or a similar specialized device.

(d) ‘Printing device’ means desktop printers, multifunction printer copiers, and printer/fax combinations taken out of service from a residence that are designed to reside on a work surface, and include various print technologies, including without limitation laser and LED (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and ‘multifunction’ or ‘all‑in‑one’ devices that perform different tasks including, without limitation, copying, scanning, faxing, and printing. Printers do not include floor‑standing printers, printers with optional floor stand, point of sale (POS) receipt printers, household printers such as a calculator with printing capabilities or label makers, or non‑stand‑alone printers that are embedded into products that are not covered devices.

(4) ‘Computer manufacturer’ means a person who:

(a) manufactures a covered computer device under its own brand for sale or without affixing a brand;

(b) sells in this State a covered computer device produced by another supplier under its own brand or label;

(c) imports covered computer devices; provided that if a company from which an importer purchases a covered computer device has a presence or assets in the United States, that company must be considered the manufacturer; or

(d) manufactures a covered computer device, supplies a covered computer device to a person within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale of a covered device through that distribution network.

~~(3)~~(5) ‘Computer monitor manufacturer’ means a person who:

(a) manufactures a covered computer monitor device under its own brand for sale or without affixing a brand;

(b) sells in this State a covered computer monitor device produced by another supplier under its own brand or label;

(c) imports covered computer monitor devices; provided that if a company from which an importer purchases a covered computer monitor device has a presence or assets in the United States, that company must be considered the manufacturer; or

(d) manufactures a covered computer monitor device, supplies a covered computer monitor device to a person within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale of a covered device through that distribution network.

~~(4)~~(6) ‘Consumer’ means an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit who has used a covered device primarily for personal or home business use.

~~(5)~~(7) ‘Consumer electronic device stewardship program’ means a recycling effort established by the ~~representative organization~~ manufacturer clearinghouse or manufacturer of a covered television device or covered computer monitor device.

~~(6)~~(8) ‘Covered computer device’ means a desktop, laptop or notebook computer or a printing device marketed and intended for use by a consumer, but does not include a covered television device.

~~(7)~~(9) ‘Covered computer monitor device’ means ~~a display device typically manufactured without an internal tuner that can display pictures and sound and is designed for use with a desktop computer~~ an electronic device that is a cathode‑ray tube or flat panel display primarily intended to display information from a computer and is used only in a residence.

~~(8)~~(10) ‘Covered devices’ means a covered computer device, covered computer monitor device, and a covered television device marketed and intended for use by a consumer. ‘Covered device’, ‘covered computer device’, ‘covered computer monitor device’, and ‘covered television device’ do not include:

(a) a covered device that is a part of a motor vehicle or a 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;

(b) a covered device that is functionally or physically a part of, or connected to, or integrated within equipment or a system designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting including, but not limited to, diagnostic, monitoring, control or medical products as defined under the federal Food, Drug, and Cosmetic Act, or equipment used for security, sensing, monitoring, antiterrorism, or emergency services purposes or equipment designed and intended primarily for use by professional users;

(c) a covered 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, air purifier, water heater, or exercise equipment;

(d) telephones of any type including, but not limited to, mobile telephones, a personal digital assistant (PDA), a global positioning system (GPS), or a hand‑held gaming device; or

(e) a plastic, wood, or composite case that once held a covered device or was a subassembly of a covered device but is void of any electronics, leaded glass, or metal electronic components.

~~(9)~~(11) ‘Covered television device’ means an electronic device that contains a ~~tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite including, but not limited to, a direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device~~ cathode‑ray tube or flat panel screen the size of which is greater than four inches when measured diagonally and is intended to receive video programming via broadcast, cable, satellite, Internet, or other mode of video transmission or to receive video from surveillance or other similar cameras marketed and intended for use by a consumer primarily for personal purposes.

~~(10)~~(12) ‘Department’ means the South Carolina Department of Health and Environmental Control.

(13) ‘Manufacturer clearinghouse’ means an entity that prepares and submits a manufacturer electronic waste program plan to the department, and oversees the manufacturer electronic waste program, on behalf of a group of two or more manufacturers cooperating with one another to collectively establish and operate an electronic waste program for the purpose of complying with this chapter and that collectively represent at least fifty‑one percent of the manufacturers’ total obligations pursuant to this chapter for a program year.

~~(11)~~(14) ‘Manufacture’s brands’ means a manufacturer’s name, brand name either owned or licensed by the manufacturer, or brand logo for which the manufacturer otherwise has legal responsibility.

(15) ‘One‑day collection event’ means a one‑day event used as a substitute for a program collection site pursuant to Section 48‑60‑55.

~~(12)~~(16) ‘Person’ means an individual, business entity, partnership, limited liability company, corporation, not‑for‑profit corporation, association, government entity, public benefit corporation, or public authority.

~~(13)~~ ~~‘Program’ means a consumer electronic device stewardship program.~~

(17) ‘Program collection site’ means a physical location that is included in a manufacturer recovery program and at which covered devices are collected and prepared for transport by a collector during a program year in accordance with the requirements of this chapter. Except as otherwise provided in this chapter, ‘program collection site’ does not include a retail collection site.

~~(14)~~(18) ‘Program year’ means the calendar year.

~~(15)~~ ~~‘Representative organization’ means an organization created to develop and oversee implementation of a statewide plan consisting of one or more consumer electronic device stewardship programs, both in the State and in other jurisdictions that authorize such a representative organization.~~

~~(16)~~(19) ‘Recover’ means to reuse or recycle.

~~(17)~~(20) ‘Recoverer’ means a person that reuses or recycles a covered device.

(21) ‘Retail collection site’ means a private sector collection site operated by a retailer collecting on behalf of a manufacturer.

~~(18)~~(22) ‘Retail sale’ means the sale of a new product through a sales outlet, the Internet, mail order, or otherwise, whether or not the seller has a physical presence in this State. A retail sale includes the sale of new products.

~~(19)~~(23) ‘Retailer’ means a person engaged in retail sales.

~~(20)~~(24) ‘Sale’ or ‘sell’ means a transfer for consideration of title including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means, but does not mean leases.

~~(21)~~(25) ‘Television’ means an electronic device that contains a ~~tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite including, but not limited to, a direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device~~ cathode‑ray tube or flat panel screen the size of which is greater than four inches when measured diagonally and is intended to receive video programming via broadcast, cable, satellite, Internet, or other mode of video transmission or to receive video from surveillance or other similar cameras.

~~(22)~~(26) ‘Television manufacturer’ means a person who:

(a) manufactures covered television devices under a brand that it licenses or owns for sale in this State;

(b) manufactures covered television devices without affixing a brand for sale in this State;

(c) resells into this State a covered television device under a brand it owns or licenses produced by other suppliers, including retail establishments that sell covered television devices under a brand the retailer owns or licenses;

(d) imports covered television devices; provided that if a company from which an importer purchases a covered device has a presence or assets in the United States, that company must be considered the manufacturer;

(e) manufactures covered television devices, supplies them to a person or persons within a distribution network that includes wholesalers or retailers in this State and benefits from the sale in this State of those covered television devices through the distribution network; or

(f) assumes the responsibilities and obligations of a television manufacturer ~~under~~ pursuant to this chapter. If the television manufacturer is one who manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand must not be included in the definition of television manufacturer ~~under~~ pursuant to items (a) or (c).

Section 48‑60‑30. A computer, computer monitor, or television manufacturer may not sell or offer to sell a covered device unless a label indicating the computer, computer monitor, or television manufacturer’s brand is permanently affixed to the covered device in a readily visible location.

Section 48‑60‑40. (A) A computer manufacturer may not sell or offer to sell in this State a covered computer device unless the computer manufacturer provides a recovery program at no charge ~~or provides a financial incentive of equal or greater value, such as a coupon~~. A recovery program must:

(1) require a computer manufacturer to offer to collect from a consumer a covered computer device bearing a label as provided in Section 48‑60‑30; and

(2) make the collection service as convenient to a consumer as the purchase of a covered computer device from a computer manufacturer as follows:

(a) A computer manufacturer may utilize a mail‑back system in which a consumer can return an end‑of‑life covered device by mail, including a system in which a consumer can go online, print a prepaid shipping label, package the product, and affix the prepaid label to the package for deposit with the United States Postal Service or other carrier selected by the computer manufacturer.

(b) If the computer manufacturer does not provide a mail‑back system, the computer manufacturer must provide collection sites or collection events, or both, that are centrally located in a county, region, or other locations based on population. Computer manufacturers shall work in coordination with the department to determine an appropriate number of collection sites or collection events, or both.

(B) A recovery program may use existing collection and consolidation infrastructure for collecting covered devices, including retailers, recyclers, and reuse organizations.

(C) Computer manufacturers may work collectively and cooperatively to offer collection services to consumers.

(D) A recovery program must be described on a computer manufacturer’s Internet website if a manufacturer maintains an Internet website.

(E) Collection events under this section must accept any covered computer device.

Section 48‑60‑51. (A) No television manufacturer or computer monitor manufacturer shall sell or offer for sale a covered television device or covered computer monitor device in this State unless the television manufacturer or computer monitor manufacturer offers a recovery program to transport and recycle, consistent with the requirements of this chapter, covered devices collected at, and prepared for transport from, the program collection sites, and one‑day collection events included in the program during the program year.

(B) A manufacturer can satisfy the requirements of this section either individually or collectively as part of a manufacturer clearinghouse.

(C) Each recovery program must ensure the following, at a minimum:

(1) satisfaction of the convenience standard described in Section 48‑60‑55;

(2) instructions for counties to file notice to participate in the program;

(3) transportation and subsequent recycling of the covered television devices and covered computer monitor devices collected at, and prepared for transport from, the program collection sites and one‑day collection events included in the program during the program year; and

(4) submission of a report to the department by March 1, 2025, and by March first each year thereafter, which reports:

(a) the total weight of all covered television devices and covered computer monitor devices transported from program collection sites and one‑day collection events statewide during the preceding program year by category of device;

(b) the total weight of all covered television devices and covered computer monitor devices transported from program collection sites and one‑day collection events in each county in the State during the preceding program year by category of device; and

(c) the total weight of all covered television devices and covered computer monitor devices transported from program collection sites and one‑day collection events in each county in the State during that preceding program year that was recycled.

(D) Each manufacturer recovery program shall make the instructions required pursuant to subsection (C)(2) available on its website by December 1, 2022, and the program shall provide a hyperlink to the website to the department for posting on the department’s website.

(E) Nothing in this chapter prevents a manufacturer from accepting, through its recovery program, covered television devices and covered computer monitor devices collected through a curbside or drop‑off collection program that is operated pursuant to a residential collection agreement between a third party and a unit of local government located within a county that has elected to participate in a manufacturer recovery program.

(F) Manufacturers of covered television devices and covered computer monitor devices are not financially responsible for transporting and consolidating covered devices collected from a collection program’s drop‑off location. Any drop‑off location operating in program year 2024 or in subsequent years must be identified by the county or municipal joint action agency in the annual written notice of election to participate in a manufacturer electronic waste program in accordance with Section 48‑60‑56 to be eligible for the subsequent program year.

(G) A television or computer monitor manufacturer shall report to the department the total weight of the manufacturer’s covered television devices or covered computer monitor devices sold at retail in the United States or in this State, if the information is available, and the total weight of covered devices collected and recycled in the State during the previous program year. A manufacturer’s weight sold data is proprietary information of the manufacturer.

Section 48‑60‑55. ~~(A)~~ ~~On January 1, 2015, and annually thereafter, a television manufacturer or computer monitor manufacturer shall either:~~

~~(1)~~ ~~join a representative organization created by manufacturers of covered electronic devices to establish fair and reasonable policies to be applied in the State and to provide a plan to the department in accordance with this section; or~~

~~(2)~~ ~~notify the department of its intent to fulfill its obligations under this chapter by implementing a program under subsection (K).~~

~~(B)~~ ~~A representative organization shall submit a plan for the operation of a statewide consumer electronic device stewardship program described in this section to the department for approval annually. The initial plan must be submitted to the department by September 3, 2014, and annually ninety days before the beginning of the program year in subsequent years. The plan must include details on how one or more eligible companies or covered electronic device stewardship programs operating within the plan will:~~

~~(1)~~ ~~provide for the recycling of all used covered television devices and used covered computer monitor devices collected by participating local governments specified in the plan based on the proportionate membership of the representative organization;~~

~~(2)~~ ~~work with a representative organization, the department, and local government recycling representatives to provide recycling services of covered television devices and covered computer monitor devices and to provide consumers with information and educational materials regarding the program to promote the recycling and reuse of used covered television devices and used covered computer monitor devices;~~

~~(3)~~ ~~achieve environmentally sound management for covered television devices and covered computer monitor devices that are collected for reuse and recycling; and~~

~~(4)~~ ~~incorporate economic arrangements that minimize costs to participating manufacturers, consistent with Section 48‑60‑170.~~

~~(C)~~ ~~The representative organization plan must:~~

~~(1)~~ ~~document how the collection component of the plan was developed with input from local government recycling representatives and other stakeholders interested in electronics recycling, especially recycling of used covered television devices and used covered computer monitor devices;~~

~~(2)~~ ~~identify each manufacturer and local government participating in the consumer electronic device stewardship programs included in the representative organization plan and the brands of consumer electronic devices sold in the State that are covered by the programs;~~

~~(3)~~ ~~provide a mechanism for making the most current list of participating manufacturers available to the department;~~

~~(4)~~ ~~include incentives to ensure convenient mechanisms to collect used consumer electronic devices throughout the State; and~~

~~(5)~~ ~~explain why a disruption of commercial activity that may arise from implementation of the plan is consistent with fulfilling the intent of this chapter and provide sufficient information to allow the department to confirm the consistency of the plan with this chapter by review of the plan’s financial and operational elements.~~

~~(D)~~ ~~Representative organization’s annual plans must include, but not be limited to, the following:~~

~~(1)~~ ~~a list of collection programs and locations available to consumers in the State;~~

~~(2)~~ ~~a description of the methods used to collect, transport, and process used consumer electronic devices in the State;~~

~~(3)~~ ~~the results of a survey of county and municipal recycling representatives concerning the availability of opportunities for consumers to recycle covered electronic devices;~~

~~(4)~~ ~~samples of information awareness and educational materials provided to consumers of consumer electronic devices to promote reuse and recycling and collection opportunities for used devices that are available in the State;~~

~~(5)~~ ~~a list of participating companies for the most recent program year and the upcoming year;~~

~~(6)~~ ~~a list of contacts from all participating local governments who may be contacted by the department to confirm that their recycling needs are being met by manufacturers participating in the representative organization;~~

~~(7)~~ ~~a report of the organization’s prior year’s activities, including the amount of electronics collected for recycling in the State and the number and location of collection locations used during the prior year;~~

~~(8)~~ ~~a description of services provided to each of the local government participants including, but not limited to, collection event services and logistical support for electronics pick‑up; and~~

~~(9)~~ ~~a list of manufacturers, as determined by the representative organization, failing to meet their individual recycling obligation as assigned by the representative organization and any shortfall penalties, pursuant to Section 48‑60‑160(E)(3). A manufacturer so reported to the department may elect to account for the shortfall in the next program year but only may elect this option once every three years. This does not preclude a representative organization from developing and implementing participation requirements that may otherwise exclude manufacturers from participating in the representative organization for failing to meet those participation requirements.~~

~~(E)(1)~~ ~~Not later than thirty calendar days after submission of the plan pursuant to subsection (B), the department shall determine whether or not to approve the plan. The department shall approve the plan for the establishment of a consumer electronic device stewardship program by the submitting representative organization if it meets the requirements of subsections (B) and (C). If the department finds activities included in the plan that do not fulfill those requirements, it shall specify in writing what the department believes to be the plan’s deficiencies, promptly meet with the representative organization to discuss the department’s concerns, and allow the representative organization at least thirty calendar days after the denial notice to submit a revised plan. If a revised plan is submitted, the department shall review and approve or disapprove the plan within thirty calendar days of submission.~~

~~(2)~~ ~~If the department disapproves a plan submitted pursuant to item (1), and the representative organization chooses not to submit a revised plan or the department disapproves the revised plan, the representative organization shall have the right to appeal pursuant to Section 44‑1‑60.~~

~~(3)~~ ~~If the plan is disapproved on appeal, the representative organization may resubmit a plan pursuant to item (1) which conforms with the guidance of the appellate opinion or member companies may comply with subsection (K).~~

~~(F)~~ ~~After the representative organization’s plan is approved, the representative organization is responsible for maintaining continuous service to local governments specified in the plan provided by the participating consumer electronic device stewardship programs. The representative organization shall establish fair and reasonable policies for administration and operation.~~

~~(G)~~ ~~Manufacturers of covered television devices or covered computer monitor devices that are participating in a plan submitted pursuant to this section and subject to a recycling assessment may choose to fulfill their recycling assessment using a consumer electronic device stewardship program that meets the elements set forth in the approved representative organization plan.~~

~~(H)~~ ~~The department shall maintain a list of the names of manufacturers and eligible programs complying with the requirement of this chapter and the brands of consumer electronic devices that are covered by the consumer electronic device stewardship program and post this list on its website.~~

~~(I)~~ ~~A representative organization and the department shall confer with stakeholders at least quarterly to address compliance, efficiency, and best practices of the stewardship programs that implement the representative organization’s plan.~~

~~(J)(1)~~ ~~Local governments that receive recycling services from stewardship programs participating in the representative organization’s plan to recycle covered television devices and covered computer monitor devices must not charge the manufacturer or the representative operating the stewardship program for collection costs and shall offer the manufacturer or its representative other covered devices collected by a participating local government at no cost. Provided, this item does not obligate a local government to offer other covered devices collected by a participating local government at no cost once the representative organization’s obligation within its plan to recycle covered television devices and covered computer monitor devices has been met during a program year.~~

~~(2)~~ ~~A representative organization shall provide the department and each local government recycling representative a point of contact for the organization, including email and phone number, to ensure communication and coordination among local governments, participating manufacturers, consumer electronic device stewardship programs and the representative organization.~~

~~(K)(1)~~ ~~If a television manufacturer or computer monitor manufacturer does not participate in a representative organization, the manufacturer annually shall recycle or arrange for the recycling of covered television devices and covered computer monitor devices in the amount of eighty percent of the weight of the covered television devices and covered computer monitor devices sold by the manufacturer in the State during the previous program year.~~

~~(2)~~ ~~The department shall notify each television manufacturer or computer monitor manufacturer of its recycling obligation by March fifteenth of each program year. A television manufacturer or computer monitor manufacturer shall provide the department information noted in item (3) to be used by the department to calculate each television and computer monitor manufacturer’s recycling obligation under this subsection.~~

~~(3)~~ ~~A television or computer monitor manufacturer shall report to the department the total weight of the manufacturer’s covered television devices or covered computer monitor devices sold at retail in the United States or in this State, if the information is available, and the total weight of covered devices collected and recycled in the State during the previous program year. A manufacturer’s weight sold data is proprietary information of the manufacturer.~~

~~(L)~~ ~~A manufacturer may fulfill the requirements of this section either individually, in participation with other manufacturers, or through a representative organization. A recovery program may use existing collection and consolidation infrastructure for collecting covered devices, including local governments, retailers, recyclers, and reuse organizations.~~

~~(M)~~ ~~A manufacturer shall provide the department with contact information for the manufacturer’s designated agent or employee whom the department may contact concerning the manufacturer’s compliance with the requirements of this section.~~

~~(N)~~ ~~Manufacturers not identified as participating in a representative organization plan pursuant to subsection (B) of this section shall comply with the requirements of subsection (K).~~

(A) Beginning in program year 2024, each television and computer monitor manufacturer recovery plan must offer collection sites in accordance with the following convenience standards for each county that elects to participate in the recovery program during a given program year:

(1) one collection site in each county that has a population of less than one hundred thousand inhabitants;

(2) two collection sites in each county that has a population of at least one hundred thousand inhabitants and less than two hundred thousand inhabitants;

(3) three collection sites in each county that has a population of at least two hundred thousand inhabitants.

(B) For purposes of this section, county population must be determined using the most recent federal decennial census.

(C) Counties that elect to participate in a manufacturer recovery program may enter into a written agreement with the operator of a manufacturer recovery program in order to:

(1) reduce or increase the number of collection sites in the county for the program year; provided, however, the agreement must be included in the manufacturer recovery program as required pursuant to Section 48‑60‑57(A);

(2) substitute a collection site in the county for four one‑day collection events or a different number of such events as provided for in the written agreement; provided, however, the agreement must be included in the manufacturer recovery program as required pursuant to Section 48‑60‑57(A);

(3) substitute the location of a collection site for the recovery program with another location;

(4) with the agreement of the applicable retailer, use a retail collection site as a program collection site; or

(5) with the agreement of the applicable retailer, use a retail collection site as a program collection site.

(D) Retail collection sites are not considered a collection site for the purposes of the convenience standards established pursuant to this section unless otherwise agreed to in writing by the retailer, operators of the manufacturer recovery program, and the applicable county.

(E) Nothing in this chapter prohibits a retailer from collecting a fee for each covered device collected.

Section 48‑60‑56. Beginning in program year 2024, a county may elect to participate in a manufacturer electronic waste program by filing a written notice of election to participate in the program with the manufacturer recovery program and the department, by March 1, 2023, and by March first each year thereafter for the upcoming program year. The written notice must include a list of proposed collection locations to support the program and may include locations already providing similar collection services. The written notice also may include a list of registered recyclers that the county would prefer using for its collection sites or one‑day events.

Section 48‑60‑57. (A) By September 1, 2023, for program year 2024, and by July first each year thereafter, each computer monitor and television manufacturer shall, individually or through a manufacturer clearinghouse, submit to the department a manufacturer recovery plan, which includes at a minimum, the following:

(1) contact information for the individual who will serve as the point of contact for the manufacturer recovery program;

(2) a list of each county that has elected to participate in the manufacturer recovery program during the program year;

(3) for each county, the location of each program collection site and one‑day collection event included in the manufacturer recovery program for the program year;

(4) the recyclers that the program plans to use to transport and subsequently recycle residential covered devices, with the updated list of recyclers to be provided to the department no later than December first preceding each program year;

(5) an explanation of any deviation from the applicable convenience standard as described in Section 48‑60‑55 for the program year, along with copies of all written agreements made pursuant to Section 48‑60‑55(C)(1) or (2); and

(6) if two or more manufacturers are participating in a manufacturer clearinghouse, certification that the methodology used for allocating responsibility for the transportation and recycling of covered television devices and covered computer monitor devices by manufacturers participating in the manufacturer clearinghouse for the program year will be in compliance with the allocation methodology established pursuant to Section 48‑60‑59.

(B)(1) Within sixty days of receiving a manufacturer recovery program plan, the department shall review and approve or disapprove the plan.

(2) If the department approves the plan, the manufacturer or manufacturer clearinghouse shall provide written notice of approval to the designated contact person for the program, and the program must be published on the department’s website.

(3) If the department disapproves the plan, the manufacturer or manufacturer clearinghouse shall provide written notice to the designated contact person for the program listing the reasons for the disapproval. Within thirty days after the date of disapproval, the manufacturer or manufacturer clearinghouse shall submit a revised recovery plan to address the insufficiencies in the department’s disapproval.

(C) Every manufacturer shall assume financial responsibility for carrying out its recovery program plan including, but not limited to, financial responsibility for providing the packaging materials necessary to prepare shipments of collected covered devices in compliance with federal, state, and local requirements, as well as financial responsibility for bulk transportation and recycling of collected covered television devices and covered computer monitor devices.

(D) A local government that receives recycling services from a manufacturer recovery program plan to recycle covered television devices and covered computer monitor devices must not charge the manufacturer, the clearinghouse, or the representative operating the program for collection costs and shall offer the manufacturer, the clearinghouse, or its representative other covered devices collected by a participating local government at no cost.

Section 48‑60‑58. (A) A manufacturer recovery program plan submitted by a manufacturer clearinghouse may take into account and incorporate individual plans or operations of one or more manufacturers that are participating in the manufacturer clearinghouse.

(B) If a manufacturer clearinghouse allocates responsibility to manufacturers for manufacturers’ transportation and recycling of covered television devices and covered computer monitor devices during a program year as part of a manufacturer electronic waste program plan, the manufacturer clearinghouse shall identify the allocation methodology in the manufacturer recovery plan submitted to the department pursuant to Section 48‑60‑57. Any allocation of responsibility among manufacturers for the collection of covered electronic devices must be in accordance with the allocation methodology established pursuant to Section 48‑60‑59.

(C) A manufacturer clearinghouse has no authority to enforce manufacturer compliance with the requirements of this chapter, including compliance with the allocation methodology set forth in a manufacturer recovery program plan, but, upon prior notice to the manufacturer, shall refer any potential noncompliance to the department.

(D) A manufacturer may request the department review a manufacturer recovery program plan proposed by the clearinghouse. The department shall consider all factors submitted in the request for review in making its determination in accordance with Section 48‑60‑57(B).

Section 48‑60‑59. (A) As used in this section, unless the context otherwise requires:

(1) ‘Adjusted total proportional responsibility’ means the percentage calculated for each participating manufacturer for a program year pursuant to subsection (F).

(2) ‘Market share’ means the percentage that results from dividing:

(a) the product of the total weight reported for a covered device by a manufacturer, for the calendar year two years before the applicable program year, pursuant to Section 48‑60‑51(G), multiplied by the population adjustment factor for that year; by

(b) the product of the total weight reported for that covered device category by all manufacturers, for the calendar year 2 years before the applicable program year, pursuant to Section 48‑60‑51(G), multiplied by the population adjustment factor for that year.

(3) ‘Participating manufacturer’ means a manufacturer that a manufacturer clearinghouse has listed, pursuant to subsection (C), as a participant in the manufacturer clearinghouse for a program year.

(4) ‘Population adjustment factor’ means the percentage that results from the population of South Carolina, as reported in the most recent federal decennial census, divided by the population of the United States, as reported in the most recent federal decennial census.

(5) ‘Return share’ means the percentage, by weight, of each covered device category that is returned to the program collection sites and one‑day collection events operated by or on behalf of either a manufacturer clearinghouse or one or more of its participating manufacturers during the calendar year two years before the applicable program year, as reported to the department pursuant to Section 48‑60‑51; except that, for program years 2024 and 2025, ‘return share’ means the percentage, by weight, of each covered device category that is estimated by the manufacturer clearinghouse to be returned to those sites and events during the applicable program year, as reported to the department pursuant to subsection (B).

(6) ‘Unadjusted total proportional responsibility’ means the percentage calculated for each participating manufacturer pursuant to subsection (E).

(B)(1) By March 1, 2023, each manufacturer clearinghouse shall provide the department with a statement of the return share for each covered device category for program year 2024.

(2) By March 1, 2024, each manufacturer clearinghouse shall provide the department with a statement of the return share for each covered device category for program year 2025.

(C) If a manufacturer clearinghouse submits to the department a manufacturer electronic waste program plan pursuant to Section 48‑60‑57, the manufacturer clearinghouse shall include in the plan a list of manufacturers that have agreed to participate in the manufacturer clearinghouse for the upcoming program year.

(D) By November 1, 2023, and by November first every year thereafter, the department shall provide each manufacturer clearinghouse with a statement of the unadjusted total proportional responsibility and adjusted total proportional responsibility of each of its participating manufacturers for the upcoming program year.

(E) For each program year, the department shall calculate the unadjusted total proportional responsibility of each participating manufacturer as follows:

(1) For each covered device category, the department shall multiply the participating manufacturer’s market share for the covered device category by the return share for the covered device category, to arrive at the category‑specific proportional responsibility of the participating manufacturer for the covered device category.

(2) The department shall then, for each participating manufacturer, add the category‑specific proportional responsibilities of the participating manufacturer calculated pursuant to item (1), to arrive at the participating manufacturer’s unadjusted total proportional responsibility.

(F) If the sum of all unadjusted total proportional responsibilities of a manufacturer clearinghouse’s participating manufacturers for a program year accounts for less than one hundred percent of the return share for that year, the department shall divide the unallocated return share among participating manufacturers in proportion to their unadjusted total proportional responsibilities, to arrive at the adjusted total proportional responsibility for each participating manufacturer.

(G) A manufacturer may use retail collection sites to satisfy some or all of the manufacturer’s responsibilities including, but not limited to, the manufacturer’s transportation and recycling of collected residential covered television devices and covered computer monitor devices pursuant to any allocation methodology established by this chapter. Nothing in this chapter prevents a manufacturer from using retail collection sites to satisfy any percentage of the manufacturer’s total responsibilities including, but not limited to, the manufacturer’s transportation and recycling of collected residential covered television devices and covered computer monitor devices pursuant to any allocation methodology established by this chapter or by administrative regulation.

Section 48‑60‑60. A computer, computer monitor, or television manufacturer is not liable for damages arising from information stored on a covered device collected from a consumer under the manufacturer’s recovery ~~programs of this chapter~~ program.

Section 48‑60‑70. (A) A retailer only may sell or offer to sell a covered device that:

(1) bears a manufacturer label as provided in Section 48‑60‑30; and

(2) is manufactured by a manufacturer that offers a recovery program as provided in Sections 48‑60‑40~~, 48‑60‑50, and 48‑60‑55~~ and 48‑60‑51.

(B) The requirements of this section do not apply to a television sold by a retailer for less than one hundred dollars.

Section 48‑60‑80. A retailer may not be liable for damages arising from information stored on any covered device collected from a consumer under the manufacturer’s recovery program.

Section 48‑60‑90. (A) After July 1, 2011, a consumer must not knowingly place or discard a covered device or subassemblies of a covered device in a waste stream that is to be disposed of in a solid waste landfill.

(B) An owner or operator of a solid waste landfill must not, at the gate, knowingly accept, for disposal, loads containing more than an incidental amount of covered devices.

(C) The owner or operator of a solid waste landfill must post, in a conspicuous location at the landfill, a sign stating that covered devices or any components of covered devices are not accepted for disposal at the landfill.

(D) The owner or operator of a solid waste landfill must notify, in writing, all haulers delivering solid waste to the landfill that covered devices or any components of covered devices are not accepted for disposal at the landfill.

Section 48‑60‑100. The department shall provide information to the public on its Internet website regarding the provisions of the chapter and the prohibition on disposing of covered devices in a solid waste landfill. The department also shall provide information about recovery programs available in the State on the department’s Internet website. The website must include information about collection options available, the definition of covered devices, the proper methods for disposal of covered devices, the proper methods for disposal of noncovered devices, and links to relevant portions of computer or television manufacturer’s Internet websites.

Section 48‑60‑110. The department may conduct audits and inspection of a computer or television manufacturer, retailer, or recoverer to determine compliance with this chapter’s provisions, and may establish by regulation administrative fines for violations of this chapter.

Section 48‑60‑120. Financial and proprietary information submitted to the department pursuant to this ~~act~~ chapter is exempt from public disclosure.

Section 48‑60‑130. The department shall include in its annual solid waste report information provided by manufacturers on recovery programs offered pursuant to this chapter.

Section 48‑60‑140. (A)(1) Covered devices must be recovered in a manner that complies with all applicable federal, state, and local requirements. Collection and storage of covered devices must be performed in accordance with best management practices.

(2) Residential covered devices must be accepted at program collection sites or one‑day collection events unless otherwise provided in this chapter;

(3) Residential covered devices must be kept separate from other material and must:

(a) be packaged in a manner to prevent breakage;

(b) be loaded onto pallets and secured with plastic wrap or in pallet‑sized bulk containers prior to shipping; and

(c) weigh on average per collection site eighteen thousand pounds per shipment, and if not then the recycler may charge the collector a prorated charge on the shortfall in weight, not to exceed six hundred dollars.

(4) Residential covered devices must be sorted into the following categories:

(a) computer monitors and televisions containing a cathode‑ray tube, other than televisions with wooden exteriors;

(b) computer monitors and televisions containing a flat panel screen;

(c) all covered televisions that are residential covered devices;

(d) all other residential covered devices that are part of the manufacturer program; and

(e) any electronic device that is not part of the manufacturer program that the collector has arranged to have picked up with residential covered devices and for which a financial arrangement has been made to cover the recycling costs outside of the manufacturer program.

(5) Containers holding the covered devices must be structurally sound for transportation.

(6) Each shipment of residential covered devices from a program collection site or one‑day collection event must include a collector‑prepared bill of lading or similar manifest, which describes the origin of the shipment and the number of pallets or bulk containers of residential covered devices in the shipment.

(B) All recycling or reuse facilities used by recoverers of covered electronic devices must, at a minimum, achieve and maintain third‑party accredited certification. Acceptable certification programs include the Responsible Recycling (R)(2) Practices and e‑Stewards. Other certification programs recognized by the department or the United States Environmental Protection Agency also are acceptable. Manufacturers of covered electronic devices shall ensure that recycling or reuse facilities used as part of their recovery programs meet this requirement. Local governments and other consolidators of covered electronic devices shall ensure that the material they collect is transferred to a recycling or reuse facility that meets this requirement.

(C) All recoverers that store, consolidate, or process covered devices in the State must register with the department the locations of all storage and processing activities.

(D)(1) A recoverer must provide, for each storage, consolidation, or processing location, adequate financial assurance to cover third party removal of all covered devices or waste material from the facility.

(2) The financial assurance must be issued in favor of the department and an approved financial assurance mechanism must be submitted prior to beginning storage or processing operations.

(3) The registrant must provide continuous coverage for closure until released from financial assurance requirements by the department.

(E) Whenever the department determines that a person is in violation of a regulation promulgated pursuant to this section, the department may:

(1) issue an order requiring the person to comply with the regulation;

(2) bring a civil action for injunctive relief in the appropriate court; or

(3) request the Attorney General bring civil or criminal enforcement action pursuant to this section.

The department also may impose reasonable civil penalties not to exceed ten thousand dollars, for each day of violation. After exhaustion of administrative remedies, a person against whom a civil penalty is invoked by the department may appeal the decision of the department or board to the court of common pleas, pursuant to the Administrative Procedures Act.

(F) A person who wilfully violates a regulation promulgated pursuant to this section is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars for each day of violation or imprisoned for not more than one year, or both. If the conviction is for a second or subsequent offense, the punishment must be a fine not to exceed twenty‑five thousand dollars for each day of violation or imprisonment not to exceed two years, or both. The provisions of the subsection do not apply to officials and employees of a local government owning or operating, or both, a municipal solid waste management facility or to officials and employees of a region, comprised of local governments, owning or operating, or both, a regional municipal solid waste management facility.

(G) Each day of noncompliance with an order issued pursuant to this section or noncompliance with a permit, regulation, standard, order, or requirement established pursuant to this section constitutes a separate offense.

Section 48‑60‑150. ~~The department shall promulgate regulations needed to implement this chapter’s provisions, which must be submitted to the General Assembly pursuant to the Administrative Procedures Act.~~

(A) To carry out the purposes and provisions of this chapter, the department is authorized to:

(1) promulgate such regulations, procedures, or standards as are necessary to protect human health and safety or the environment from the adverse effects of improper, inadequate, or unsound management of covered devices;

(2) issue, deny, revoke, or modify permits, registrations, or orders under such conditions as the department may prescribe, pursuant to procedures consistent with the South Carolina Administrative Procedures Act, for the operation of facilities that recover covered devices;

(3) conduct inspections, conduct investigations, obtain samples, and conduct research regarding the operation and maintenance of any facility that recovers covered devices;

(4) enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as the department determines appropriate, with other state, federal, or interstate agencies, counties, municipalities, educational institutions, other local governments, and local health departments, consistent with the purposes and provisions of this chapter; and

(5) cooperate with private organizations and with business and industry in carrying out the provisions of this chapter.

(B) Regulations promulgated to carry out the purposes and provisions of this chapter must be submitted to the General Assembly pursuant to the Administrative Procedures Act.

(C) The requirements of this chapter supersede all regulations, rules, standards, orders, or other actions of the department that are not consistent with this chapter.

Section 48‑60‑160. (A) A manufacturer subject to the requirements of this chapter shall pay the department an annual registration fee in the amount of three thousand five hundred dollars.

~~(B)~~ ~~A representative organization shall pay the department an annual registration fee in the amount of twenty thousand dollars for the department to pay the full costs of administering and enforcing the provisions of this chapter relating to representative organizations.~~

~~(C)~~ ~~Manufacturers participating in a representative organization are exempt from paying an annual registration fee.~~

~~(D)~~(B) A manufacturer that produces computer monitors, computers, or televisions is only required to pay one annual registration fee, if a fee is required.

~~(E)(1)~~(C) A manufacturer of a covered device that fails to comply with a requirement of this chapter~~, excluding recycling obligation shortfalls as provided for in this section,~~ is subject to a fine not to exceed ~~one~~ seven thousand dollars per violation.

~~(2)~~ ~~A manufacturer of a covered television device or covered computer monitor device participating in a plan pursuant to Section 48‑60‑50 or Section 48‑60‑55(K) that fails to meet its individual recycling obligation for the previous program year as outlined in this chapter may elect to:~~

~~(a)~~ ~~pay a shortfall fee as determined by the department; or~~

~~(b)~~ ~~account for the amount of the shortfall in the following year. A manufacturer electing to account for the amount of a shortfall in the following year only may elect this option once every three years.~~

~~(3)~~ ~~The shortfall fee provided for in this section must be calculated as follows:~~

~~(a)~~ ~~If the manufacturer of a covered television or computer monitor device recycles at least ninety percent, but less than one hundred percent of its individual recycling obligation, the shortfall fee is thirty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.~~

~~(b)~~ ~~If the manufacturer of a covered television or computer monitor device recycles at least fifty percent, but less than ninety percent of its individual recycling obligation, the shortfall fee is forty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.~~

~~(c)~~ ~~If the manufacturer of a covered television or computer monitor device recycles less than fifty percent of its individual recycling obligation, the shortfall fee is fifty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.~~

~~(F)~~(D) A manufacturer of a covered device that sells ~~five~~ one hundred or fewer such devices in the State per year is exempt from registration~~,~~ or penalty~~, or shortfall fees~~ proposed in this chapter.

~~(G)~~ ~~A television manufacturer participating in a representative organization with an approved consumer electronic device stewardship program that falls below seventy‑five percent of its allocation, as determined by a representative organization at the end of the program year, is ineligible to participate in the consumer electronic device stewardship program the following year and must participate in the plan enumerated in Section 48‑60‑55(K).~~

~~(H)~~(E) All fees and penalties collected by the department to administer and enforce this chapter must be deposited in a dedicated account and may be expended by the department to cover the department’s costs to implement this chapter. ~~Shortfall fees must be used to assist local governments in recycling covered devices as required by this chapter.~~

Section 48‑60‑170. (A) The intent of this chapter is to implement programs and services that ensure the availability of adequate end‑of‑life electronic product handling for the benefit of citizens of the State, which fairly, effectively, and efficiently share the burdens of doing so among television manufacturers, computer manufacturers, and computer monitor manufacturers, regardless of the effect on competition of doing so, and which require the State to direct and supervise implementation of a statewide plan of one or more consumer electronic device stewardship programs. ~~Representative organizations and persons participating in representative organizations may not be held liable or prosecuted under federal or state antitrust law.~~

(B) A manufacturer acting in accordance with the provisions of this chapter may negotiate, enter into, or conduct business with a ~~representative organization~~ manufacturer clearinghouse, and the manufacturer, ~~representative organization~~ manufacturer clearinghouse, and eligible program are not subject to damages, liability, or scrutiny under federal or state antitrust law, regardless of the effects of their actions on competition. It further is the intent and belief of the State that the supervisory activities described in this chapter are sufficient to confirm that activities of the manufacturers, eligible programs, and recyclers developing or participating in a plan that is approved pursuant to Section ~~48‑60‑55~~ 48‑60‑51 are authorized and actively supervised by the State.

Section 48‑60‑180. The department shall within thirty‑six months after the effective date of this act and every five years thereafter, initiate a stakeholder group, which shall include local governments, manufacturers of covered devices, environmental organizations, waste handlers and other interested parties, to review the sections of this chapter to identify possible revisions. Upon completion of this review, the department shall submit to the Chairman of the House Agriculture, Natural Resources and Environmental Affairs Committee and the Chairman of the Senate Agriculture and Natural Resources Committee a report identifying all recommended amendments to this chapter.”

B. Section 14 of Act 129 of 2014, as amended by Act 82 of 2021, is repealed.

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval y the Governor.

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