



## 2005 SENATE BILL 367

October 6, 2005 - Introduced by Senators MILLER, LASSA, HANSEN, ROBSON, RISSER and ERPENBACH, cosponsored by Representatives OTT, BIES, SHILLING, BLACK, LEHMAN, SINICKI, HAHN, PARISI, MOLEPSKE, POCAN, POPE-ROBERTS, BERCEAU and RICHARDS. Referred to Committee on Natural Resources and Transportation.

1     **AN ACT to amend** 16.72 (2) (f), 16.75 (1) (a) 1., 287.91 (2) and 287.97; and **to**  
2     **create** 16.71 (7), 16.72 (2) (g), 20.370 (2) (hg), 287.07 (5) and 287.17 of the  
3     statutes; **relating to:** the disposal of electronic equipment, producer  
4     responsibility for electronic devices that are discarded, substances contained in  
5     electronic equipment, grants for facilities and systems for recycling electronic  
6     equipment, state purchasing of electronic equipment, granting rule-making  
7     authority, making an appropriation, and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

This bill makes numerous changes in the law related to the disposal of electronic equipment.

#### ***Producer responsibility***

This bill requires a producer of electronic equipment to implement a program under which the producer finances the collection and recycling or disposal of certain kinds of electronic equipment sold in this state. The kinds of electronic equipment that must be collected are televisions, computer monitors, color video display devices, certain other video display devices, computers that weigh more than six pounds, digital audio storage devices, printers, facsimile transmission devices, optical scanners, and mobile telephones (covered electronic equipment). The bill authorizes the Department of Natural Resources (DNR) to promulgate rules adding

**SENATE BILL 367**

additional kinds of electronic equipment to this list. If a producer fails to implement a program that satisfies the requirements of the bill, the bill prohibits the sale of the producer's covered electronic equipment in this state.

A producer is responsible for financing the collection and disposition of its own covered electronic equipment that is sold in this state after the requirement takes effect and a portion of all covered electronic equipment, without regard to who produced the equipment, that was sold in this state before the requirement takes effect (historic and orphan covered waste). The amount of historic and orphan covered waste for which a producer is responsible is based on the producer's market share.

The bill requires a producer to submit a plan describing its proposed program to DNR no later than 30 months after this bill becomes law. A plan must satisfy a number of requirements in addition to containing the provisions that the producer proposes to implement to comply with the requirements for financing the collection and disposition of covered electronic equipment. The plan must show how the producer will comply with requirements for the protection of workers who participate in the collection and disposition of covered electronic equipment, how the producer will comply with labeling and consumer education requirements, and how the producer will ensure that covered electronic equipment will not be exported to a country that is not a member of the Organization for Economic Cooperation and Development, except that covered electronic equipment may be exported if it is in working order and destined for direct reuse. A plan must also include provisions for the payment of a fee for each piece of a producer's covered equipment sold at retail in this state. The fee is \$1 before January 1, 2013, 60 cents from 2013 to 2017, and 20 cents after 2017. A plan must also describe the actions that the producer will take if the plan, once implemented, fails to achieve the performance requirements set forth in the bill for the amount of covered electronic equipment collected and the amount of components and materials that are reused or recycled.

The bill requires DNR to review the plan submitted by a producer and, within four months of receiving the plan, approve the plan or notify the producer of any deficiencies. A producer must begin to implement its plan upon approval and must fully implement the plan within a year after approval. Once DNR approves a producer's plan or within three years after the bill becomes law, whichever is earlier, the producer must also provide to DNR proof of financial responsibility for complying with the bill's requirements. The amount of the proof of financial responsibility is based on the sales of the producer's covered electronic equipment in this state, but may not be less than \$300,000. The bill also requires a producer to conduct public polling to determine public awareness of the producer's program.

The bill requires a producer to submit to DNR an annual report on its program showing whether the program is consistent with the approved plan and whether the producer has achieved the performance requirements set forth in the bill. DNR must review each report and, within nine months of receipt of the report, notify the producer of any deficiency in its program. If a producer fails to remedy deficiencies by a deadline set by DNR, DNR notifies the producer that its program is disapproved and no person may sell the producer's covered electronic equipment in this state.

**SENATE BILL 367**

The bill allows a producer to work jointly with other producers to comply with the bill's requirements. The bill also authorizes DNR to grant a waiver from the requirements in the bill to a producer with sales in this state that have a dollar value of less than 0.1 percent of the dollar value of all sales of covered electronic equipment in this state.

***Prohibition on hazardous substances in electronic equipment***

This bill prohibits the sale in this state of covered electronic equipment that contains certain substances beginning seven years after this bill becomes law, unless DNR grants an exemption from the prohibition for a specific substance. The substances are lead, mercury, cadmium, beryllium, hexavalent chromium, brominated flame retardants, and polyvinyl chloride. DNR may promulgate rules adding substances to this list. DNR may grant an exemption from the prohibition for a limited term if a producer demonstrates that it is technically impossible to substitute a less harmful alternative.

***Landfill ban***

This bill prohibits the disposal in landfills of televisions, computer monitors, color video display devices, certain other video display devices, computers that weigh more than six pounds, digital audio storage devices, printers, and facsimile transmission devices. The prohibition takes effect on January 1 of the first year that begins at least a year after the bill becomes law, except that the secretary of natural resources may delay the effective date of the prohibition if its application will result in hardship for local governments.

***State purchasing***

This bill prohibits a state agency from purchasing covered electronic equipment produced by a producer that fails to submit a plan to DNR for the collection and disposition of covered electronic waste by the deadline established in the bill. The bill also requires the Department of Administration and other state agencies, in writing specifications for the purchase of covered electronic equipment, to incorporate terms requiring the vendor to take possession of or otherwise properly dispose of the equipment after the equipment is taken out of service.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           **SECTION 1.** 16.71 (7) of the statutes is created to read:
- 2           16.71 (7) The department, any other designated purchasing agent under sub.
- 3           (1), and each authority other than the University of Wisconsin Hospitals and Clinics
- 4           Authority, may not purchase covered electronic equipment, as defined in s. 287.17

**SENATE BILL 367****SECTION 1**

1 (1) (a), produced by a vendor that has violated s. 287.17 (3) until the department of  
2 natural resources approves a plan for the vendor under s. 281.17 (4).

3 **SECTION 2.** 16.72 (2) (f) of the statutes is amended to read:

4 16.72 (2) (f) ~~In~~ Except as provided in par. (g), in writing specifications under  
5 this subsection, the department, any other designated purchasing agent under s.  
6 16.71 (1), and each authority, other than the University of Wisconsin Hospitals and  
7 Clinics Authority, shall incorporate requirements relating to the recyclability and  
8 ultimate disposition of products and, wherever possible, shall write the  
9 specifications so as to minimize the amount of solid waste generated by the state,  
10 consistent with the priorities established under s. 287.05 (12), and to minimize the  
11 amount of hazardous waste generated by the state. All specifications under this  
12 subsection shall discourage the purchase of single-use, disposable products and  
13 require, whenever practical, the purchase of multiple-use, durable products.

14 **SECTION 3.** 16.72 (2) (g) of the statutes is created to read:

15 16.72 (2) (g) In writing specifications under this subsection pertaining to  
16 covered electronic equipment, as defined in s. 287.17 (1) (a), the department, any  
17 other designated purchasing agent under s. 16.71 (1), and each authority, other than  
18 the University of Wisconsin Hospitals and Clinics Authority, shall incorporate terms  
19 requiring the vendor to take possession of or otherwise properly dispose of the  
20 covered electronic equipment after the covered electronic equipment is taken out of  
21 service by the department, designated purchasing agent, or authority, as applicable.

22 **SECTION 4.** 16.75 (1) (a) 1. of the statutes, as affected by 2005 Wisconsin Act 25,  
23 is amended to read:

24 16.75 (1) (a) 1. All orders awarded or contracts made by the department for all  
25 materials, supplies, equipment, and contractual services to be provided to any

**SENATE BILL 367**

1 agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t),  
2 (6), (7), (8), (9), and (10m) and ss. 16.71 (7), 16.73 (4) (a), 16.751, 16.754, 50.05 (7) (f),  
3 153.05 (2m) (a), 287.15 (7), and 301.265, shall be awarded to the lowest responsible  
4 bidder, taking into consideration life cycle cost estimates under sub. (1m), when  
5 appropriate, the location of the agency, the quantities of the articles to be supplied,  
6 their conformity with the specifications, and the purposes for which they are  
7 required and the date of delivery.

8 **SECTION 5.** 20.370 (2) (hg) of the statutes is created to read:

9 20.370 (2) (hg) *Producer responsibility for electronic waste.* All moneys  
10 received under s. 287.17 for the cost of administering the electronic waste program  
11 under ss. 287.07 (5) and 287.17 and to make grants under s. 287.17 (15m).

12 **SECTION 6.** 287.07 (5) of the statutes is created to read:

13 287.07 (5) ELECTRONIC DEVICES. (a) Except as provided under par. (b),  
14 beginning on January 1 of the first year that begins at least 365 days after the  
15 effective date of this subsection .... [revisor inserts date], no person may dispose of  
16 any of the following in a solid waste disposal facility:

17 1. A television; a computer monitor; a color video display device; or another  
18 video display device with a screen that is at least 8 inches in its longest diagonal  
19 measurement.

20 2. A computer that weighs more than 6 pounds, including a portable computer.

21 3. A digital audio storage device.

22 4. A printer.

23 5. A facsimile transmission device.

24 (b) The secretary of natural resources may delay the effective date of par. (a)  
25 if the secretary finds that application of par. (a) will result in unacceptable hardship

**SENATE BILL 367****SECTION 6**

1 for municipalities or counties in conducting solid waste recycling or disposal  
2 activities. The secretary may not delay the effective date by more than 3 years. The  
3 secretary shall provide a notice of any delay under this paragraph, including the  
4 delayed effective date, to the revisor of statutes for publication in the Wisconsin  
5 Administrative Register.

6 **SECTION 7.** 287.17 of the statutes is created to read:

7 **287.17 Producer accountability for electronic waste. (1) DEFINITIONS.**

8 In this section:

9 (a) “Covered electronic equipment” means any of the following:

- 10 1. A television; a computer monitor; a color video display device; or another  
11 video display device with a screen that is at least 8 inches in its longest diagonal  
12 measurement.
- 13 2. A computer that weighs more than 6 pounds, including a portable computer.
- 14 3. A digital audio storage device.
- 15 4. A printer.
- 16 5. A facsimile transmission device.
- 17 6. An optical scanner.
- 18 7. A mobile telephone.
- 19 8. Any other kind of electronic equipment specified by the department under  
20 sub. (12).

21 (b) “Covered electronic waste” means covered electronic equipment that has  
22 been taken out of service or has been relinquished for recycling or disposal but has  
23 not been recycled or finally disposed of. “Covered electronic waste” does not include  
24 covered electronic equipment that has been donated for reuse or sold for reuse.

**SENATE BILL 367**

1 (c) "Electronic equipment" means equipment that requires electric current or  
2 electromagnetic fields to function and that contains a circuit board.

3 (cm) "Historic covered waste" means covered electronic equipment that was  
4 first sold at retail before the effective date under sub. (2) and that has become  
5 electronic waste, the producer of which is in business on the effective date under sub.  
6 (2).

7 (d) "Orphan covered waste" means covered electronic equipment that was first  
8 sold at retail before the effective date under sub. (2) and that has become electronic  
9 waste, the producer of which is not in business on the effective date under sub. (2).

10 (e) "Producer" means a person, other than a person that remanufactures and  
11 resells covered electronic waste, that does any of the following:

12 1. Manufactures and sells covered electronic equipment under its own brand.

13 2. Manufactures and sells covered electronic equipment without affixing a  
14 brand.

15 3. Resells covered electronic equipment manufactured by others under the  
16 person's own brand.

17 (f) "Program" means the actions that are taken to carry out a plan approved  
18 under sub. (4).

19 (g) "Recycling" means processing waste materials to prepare them to be used  
20 for the same or a different use. "Recycling" does not include burning waste with or  
21 without energy recovery.

22 (h) "Reuse" means to use covered electronic equipment or a component of  
23 covered electronic equipment for its original use.

**SENATE BILL 367****SECTION 7**

1           **(2) EFFECTIVE DATE.** The effective date for subs. (3) to (14) is the first day of the  
2 25th month beginning after the effective date of this subsection .... [revisor inserts  
3 date].

4           **(3) PLAN.** (a) Except as provided under sub. (13), no later than the first day of  
5 the 6th month beginning after the effective date under sub. (2), a producer whose  
6 covered electronic equipment is sold in this state shall submit to the department a  
7 plan that includes all of the following:

8           1. Provisions, designed to achieve the performance requirements in sub. (7) (a),  
9 under which the producer finances the collection, transportation, and reuse,  
10 recycling, treatment, or disposal, in a manner that is consistent with all  
11 requirements under state law, of the producer's covered electronic equipment first  
12 sold at retail after the effective date under sub. (2) that is discarded in this state.

13           2. Provisions, designed to achieve the performance requirements in sub. (7) (b),  
14 under which the producer finances the collection, transportation, and reuse,  
15 recycling, treatment, or disposal, in a manner that is consistent with all  
16 requirements under state law, of the producer's share, as determined under sub. (7)  
17 (c), of historic covered waste and orphan covered waste.

18           3. Provisions to ensure compliance with the worker protection requirements in  
19 sub. (7) (d) and (e).

20           4. Provisions for meeting the labeling requirements in sub. (8).

21           5. Provisions for meeting the consumer education requirements in sub. (9).

22           6. Provisions for meeting the requirements for providing information to  
23 recyclers in sub. (10).



**SENATE BILL 367**

1           7. A description of actions that will be implemented by the producer if the  
2 provisions under subd. 1. or 2. fail to achieve the performance requirements in sub.  
3 (7) (a) or (b).

4           8. Documentation, such as contracts, letters of intent, or memoranda of  
5 understanding, that all persons whose participation is needed to implement the  
6 provisions under subds. 1. and 2. are willing to participate.

7           9. One of the following:

8           a. Information concerning the number of the producer's televisions sold in this  
9 state during each of the 10 years before the year in which the producer submits the  
10 plan and information concerning the number and type of the producer's computers,  
11 mobile telephones, and other pieces of covered electronic equipment sold in this state  
12 during each of the 5 years before the year in which the producer submits the plan.

13           b. A statement that the producer prefers to have the department estimate  
14 under sub. (7) (c) the sales of the producer's covered electronic equipment in this  
15 state.

16           10. Provisions that ensure all of the following:

17           a. That covered electronic waste collected under the plan that contains a  
18 substance listed in sub. (15) (a) 1. to 8. and that is not in working order is not exported  
19 to any country that is not a member of the Organization for Economic Cooperation  
20 and Development.

21           b. That covered electronic waste collected under the plan that contains a  
22 substance listed in sub. (15) (a) 1. to 8. and that is in working order is not exported  
23 to any country that is not a member of the Organization for Economic Cooperation  
24 and Development unless the producer or a person participating in the producer's

**SENATE BILL 367****SECTION 7**

1 program certifies to the department that the covered electronic waste is in working  
2 order and is destined for direct reuse.

3 11. Provisions to ensure that opportunities and locations for collection of  
4 covered electronic waste are convenient for all persons in this state.

5 12. Provisions for the payment of the partial electronics recycling fee under sub.  
6 (14) (b).

7 13. Procedures for modifying the plan with the consent of the department.

8 (b) A producer may not include in a plan under par. (a) a requirement that  
9 persons who wish to discard covered electronic equipment pay a fee, at the time that  
10 the covered electronic equipment is relinquished, to discard the covered electronic  
11 equipment, but may require those persons to deliver covered electronic equipment  
12 to a collection point or to ship covered electronic to a person designated by the  
13 producer if the producer pays for the shipping.

14 (c) A producer may provide for a person other than the producer, including an  
15 entity created by more than one producer, to implement portions of a plan under par.  
16 (a) and may provide for implementation of portions of a plan jointly with other  
17 producers.

18 **(4) REVIEW OF PLAN.** The department shall review a plan submitted under sub.  
19 (3) within 3 months of its submission to determine whether the plan complies with  
20 the requirements of that subsection. Within 30 days after completing its review, the  
21 department shall notify a producer of any deficiencies in the producer's plan. If an  
22 original or modified plan complies with the requirements of sub. (3), the department  
23 shall approve the plan. If a producer fails to remedy deficiencies in the producer's  
24 plan by a deadline set by the department, the department shall disapprove the plan

**SENATE BILL 367**

1 and no person may sell the producer's covered electronic equipment in this state until  
2 all of the following occur:

3 (a) The producer submits a new plan.

4 (b) The producer pays a fee in the amount specified under sub. (14) for  
5 submitting an original plan.

6 (c) The department approves the new plan.

7 **(5) IMPLEMENTATION.** Upon approval under sub. (4) of a producer's plan, the  
8 producer shall begin to implement the plan. A producer shall fully implement its  
9 plan no more than 12 months after the department approves the plan under sub. (4).

10 **(6) PROOF OF FINANCIAL RESPONSIBILITY.** Except as provided under sub. (13), no  
11 person may sell a producer's covered electronic equipment in this state beginning on  
12 the first day of the 12th month beginning after the effective date under sub. (2) or on  
13 the first day of the 2nd month beginning after the approval of the producer's plan  
14 under sub. (4), whichever is earlier, unless the producer files with the department  
15 a surety bond or other form of financial assurance acceptable to the department in  
16 an amount equal to \$300,000 or 10 percent of the dollar amount of the sales of the  
17 producer's covered electronic equipment in this state in the year before the producer  
18 files the bond, whichever is greater, established in favor of or made payable to the  
19 department to cover costs incurred because of any violation by the producer of the  
20 requirements of this section.

21 **(7) PERFORMANCE REQUIREMENTS.** (a) To achieve the performance requirements  
22 for a producer's covered electronic equipment that is sold at retail after the effective  
23 date under sub. (2) and that is discarded in this state, a producer must demonstrate  
24 all of the following:

**SENATE BILL 367****SECTION 7**

1           1. That, no later than the first day of the 24th month beginning after approval  
2 of the producer's plan under sub. (4), the number of pieces of the producer's covered  
3 electronic equipment sold at retail after the effective date under sub. (2) that are  
4 collected through the producer's program annually equals at least 50 percent of the  
5 number of pieces of the producer's covered electronic equipment that are sold at  
6 retail in this state annually and that the program annually results in the reuse or  
7 recycling of at least 50 percent of the components and materials contained in the  
8 covered electronic equipment that is collected.

9           2. That, no later than the first day of the 48th month beginning after approval  
10 of the producer's plan under sub. (4), the number of pieces of the producer's covered  
11 electronic equipment sold at retail after the effective date under sub. (2) that are  
12 collected through the producer's program annually equals at least 75 percent of the  
13 number of pieces of the producer's covered electronic equipment that are sold at  
14 retail in this state annually and that the program annually results in the reuse or  
15 recycling of at least 75 percent of the components and materials contained in the  
16 covered electronic equipment that is collected.

17           3. That, no later than the first day of the 60th month beginning after approval  
18 of the producer's plan under sub. (4), the number of pieces of the producer's covered  
19 electronic equipment sold at retail after the effective date under sub. (2) that are  
20 collected through the producer's program annually equals at least 90 percent of the  
21 number of pieces of the producer's covered electronic equipment that are sold at  
22 retail in this state annually and that the program annually results in the reuse or  
23 recycling of at least 95 percent of the components and materials contained in the  
24 covered electronic equipment that is collected.

**SENATE BILL 367**

1 (b) To achieve the performance requirements for historic covered waste and  
2 orphan covered waste, a producer must demonstrate all of the following:

3 1. That, no later than the first day of the 24th month beginning after approval  
4 of the producer's plan under sub. (4), the amount of historic covered waste and  
5 orphan covered waste collected through the producer's program annually equals at  
6 least the producer's share, determined under par. (c), of 2 kilograms per resident of  
7 this state and that the program annually results in the reuse or recycling of at least  
8 the producer's share of 1.5 kilograms of the historic covered waste and orphan  
9 covered waste.

10 2. That, no later than the first day of the 60th month beginning after approval  
11 of the producer's plan under sub. (4), the amount of historic covered waste and  
12 orphan covered waste collected through the producer's program annually equals at  
13 least the producer's share, determined under par. (c), of 4 kilograms per resident of  
14 this state and that the program annually results in the reuse or recycling of at least  
15 the producer's share of 3.5 kilograms of the historic covered waste and orphan  
16 covered waste.

17 (c) The department shall determine each producer's share for the purposes of  
18 par. (b) based on the producer's market share of sales of covered electronic  
19 equipment. If a producer does not provide the information under sub. (3) (a) 9. a.,  
20 the department shall increase its estimate of the producer's market share by 10  
21 percent, and adjust its estimates of the market shares of producers who provide that  
22 information accordingly. The department may adjust its determinations of market  
23 share annually.

24 (d) A producer shall include in its plan submitted under sub. (3) provisions to  
25 ensure that employers of workers who perform activities necessary to collect,

**SENATE BILL 367****SECTION 7**

1 transport, reuse, recycle, treat, or dispose of covered electronic waste under the  
2 producer's program protect the health and safety of those workers by doing all of the  
3 following:

4 1. Providing to the department of workforce development evidence of  
5 compliance with state and federal occupational safety and health requirements.

6 2. Performing monitoring of the employers' facilities for all of the substances  
7 under sub. (15) (a) 1. to 8. and reporting the results of the monitoring to the  
8 department of workforce development every 3 months.

9 3. Performing human health monitoring of all of the workers, including blood  
10 testing for lead and compounds containing bromine, chlorine, and mercury, and  
11 reporting the results of the monitoring to the department of workforce development  
12 every 3 months.

13 (e) A producer shall include in its plan submitted under sub. (3) provisions to  
14 ensure that prison labor is not used in this state to collect, transport, reuse, recycle,  
15 treat, or dispose of covered electronic waste under the producer's program unless all  
16 of the following apply:

17 1. The prisoners are provided with compensation equivalent to market wages  
18 for the work performed.

19 2. The prisoners are afforded protections that are at least equal to those  
20 provided under this state's occupational health and safety laws and rules, in addition  
21 to the protections under par. (d).

22 **(8) LABELING.** Beginning on the first day of the 12th month beginning after the  
23 date on which a producer's plan is approved under sub. (4), no person may sell the  
24 producer's covered electronic equipment in this state unless the equipment is labeled

**SENATE BILL 367**

1 with the following information or is accompanied by written material to be provided  
2 to the user of the equipment that contains the following information:

3 (a) A description of which of the substances under sub. (15) (a) 1. to 8. are  
4 contained in the covered electronic equipment and of the parts that contain those  
5 substances.

6 (b) A description of the prohibitions in s. 287.07 (5).

7 (c) A toll-free telephone number or the address of an Internet site that users  
8 of covered electronic equipment can use to obtain information and instructions about  
9 discarding the covered electronic equipment through the producer's program.

10 **(9) CONSUMER EDUCATION.** A producer shall include in a plan submitted under  
11 sub. (3) provisions for educational activities that are designed to ensure that users  
12 of covered electronic equipment understand all of the following:

13 (a) The prohibitions in s. 287.07 (5).

14 (b) The potential effects on human health and the environment of the  
15 substances listed in sub. (15) (a) 1. to 8. and the dangers of improper disposal of  
16 covered electronic equipment.

17 (c) The available options for discarding covered electronic equipment,  
18 including those under the producer's program.

19 (d) The role of users of covered electronic equipment in achieving the reuse,  
20 recycling, and other proper disposal of covered electronic equipment.

21 **(10) INFORMATION FOR RECYCLERS.** A producer shall include in a plan submitted  
22 under sub. (3) provisions for providing, to persons who recycle or disassemble the  
23 producer's covered electronic waste, information that is needed to ensure that the  
24 recycling or disassembly is conducted in a manner that protects worker health and  
25 safety and that is environmentally sound. In the plan, a producer shall commit itself

**SENATE BILL 367****SECTION 7**

1 to providing, to persons who recycle or disassemble the producer's covered electronic  
2 waste, the information required by this subsection for a new model of covered  
3 electronic equipment immediately upon the introduction of the new model.

4 (11) REVIEW OF PROGRAM. (a) Within 12 months of approval of its plan and  
5 annually thereafter, a producer shall submit a report that demonstrates whether the  
6 producer's program is consistent with the approved plan and, for reports submitted  
7 after the performance requirements under sub. (7) (a) and (b) apply, whether the  
8 producer has achieved the performance requirements. In its report, a producer shall  
9 provide documentation to show whether its program has resulted in the export of  
10 covered electronic waste that is inconsistent with sub. (3) (a) 10.

11 (b) The department shall review each report under par. (a) within 6 months of  
12 its submission. Within 3 months after completing its review, the department shall  
13 notify a producer of any deficiency in its program. If a producer fails to remedy any  
14 deficiencies in its program by a deadline set by the department, all of the following  
15 apply:

16 1. The department shall notify the producer that its program is disapproved.

17 2. No person may sell the producer's covered electronic equipment in this state  
18 until the department determines that the producer has remedied the deficiencies in  
19 its program, the producer pays a fee in the amount specified under sub. (14) for  
20 submitting an original plan, and, for a 2nd or subsequent failure, the producer  
21 complies with any requirements specified under sub. (16) (b).

22 (c) 1. No later than 20 months after the approval of a producer's plan under sub.  
23 (4), the producer shall submit to the department a proposal for the design and  
24 implementation of independent polling of awareness of the producer's program  
25 among residents of this state. A group of producers may satisfy the requirement in



**SENATE BILL 367**

1 this subdivision through a joint submission. The department shall notify a producer  
2 of any deficiencies in the producer's proposal. If the department determines that an  
3 original or modified proposal will accurately measure awareness of the producer's  
4 program, the department shall approve the proposal. If a producer fails to remedy  
5 any deficiencies in the producer's proposal by a deadline set by the department, the  
6 department shall disapprove the proposal and no person may sell the producer's  
7 covered electronic equipment in this state until the department determines that the  
8 producer has remedied the deficiencies in its proposal and the producer pays a fee  
9 in the amount specified under sub. (14) for submitting an original plan.

10 2. A producer shall conduct the polling provided for in its proposal approved  
11 under subd. 1. No later than 4 months after approval of the proposal, the producer  
12 shall report the results of the polling to the department.

13 (d) A producer shall make a report submitted under par. (a) available to the  
14 public on the Internet for 3 years after it submits the report and shall allow the  
15 department to place a link to the report on the department's Internet site.

16 **(12) ADDITIONAL COVERED ELECTRONIC EQUIPMENT.** If the department determines  
17 that the disposal of a kind of electronic equipment that is not listed in sub. (1) (a) 1.  
18 to 5. may be harmful to human health or the environment, the department may  
19 promulgate a rule specifying that the kind of electronic equipment is covered  
20 electronic equipment. The department shall specify all of the following in a rule  
21 promulgated under this subsection:

22 (a) A date, at least 6 months after the rule is promulgated, by which a producer  
23 of the kind of electronic equipment must submit to the department a plan under sub.  
24 (3) for the kind of electronic equipment or proposed modifications to add the kind of  
25 electronic equipment to a plan previously approved under sub. (4).

**SENATE BILL 367****SECTION 7**

1 (b) A date, at least 6 months after the rule is promulgated, by which a producer  
2 of the kind of electronic equipment must file with the department proof of financial  
3 responsibility under sub. (6) if the producer has not previously filed that proof.

4 (c) A date, at least 12 months after the rule is promulgated, by which a producer  
5 of the kind of electronic equipment must implement the program for the kind of  
6 electronic equipment.

7 **(13) WAIVER.** A producer may apply to the department for a waiver from the  
8 requirements of subs. (3) to (11) if the dollar amount of annual sales in this state of  
9 the producer's covered electronic equipment is less than 0.1 percent of the dollar  
10 amount of annual sales in this state of all covered electronic equipment. The  
11 department may impose conditions on a waiver under this subsection. No person  
12 may sell in this state a producer's electronic equipment if the producer violates  
13 conditions imposed on a waiver under this subsection until the department  
14 determines that the producer has ceased violating the conditions and the producer  
15 pays a fee in the amount specified under sub. (14) for submitting an original plan.

16 **(14) FEES.** (a) The department shall promulgate rules specifying fees to be paid  
17 by producers when they submit plans under sub. (3).

18 (b) 1. A producer shall include in a plan submitted under sub. (3) provisions for  
19 the collection and payment to the department of a partial electronics recycling fee in  
20 the amount specified in subd. 2. for each piece of the producer's covered electronic  
21 equipment sold at retail in this state.

22 2. a. The partial electronics recycling fee is \$1 before January 1, 2013.

23 b. Beginning on January 1, 2013, and ending on December 31, 2017, the partial  
24 electronics recycling fee is 60 cents.

**SENATE BILL 367**

1 c. Beginning on January 1, 2018, the partial electronics recycling fee is 20  
2 cents.

3 (c) The department may promulgate a rule specifying fees for granting waivers  
4 under sub. (13).

5 **(15) RESTRICTIONS ON HAZARDOUS SUBSTANCES IN ELECTRONIC EQUIPMENT.** (a)  
6 Except as provided in par. (b), beginning on the first day of the 60th month beginning  
7 after the effective date under sub. (2) or, for a substance specified under subd. 8.,  
8 beginning on the date specified under par. (c), no person may sell covered electronic  
9 equipment in this state that contains any of the following:

- 10 1. Lead.
- 11 2. Mercury.
- 12 3. Cadmium.
- 13 4. Beryllium.
- 14 5. Hexavalent chromium.
- 15 6. Brominated flame retardants.
- 16 7. Polyvinyl chloride.
- 17 8. Any other substance specified by the department under par. (c).

18 (b) The department may grant a limited term exemption from the prohibition  
19 under par. (a) with respect to a substance if a producer demonstrates to the  
20 department that it is technically impossible to substitute a less harmful alternative  
21 for the substance. The department shall limit the length of an exemption to ensure  
22 that producers have an incentive to identify a less harmful alternative. The  
23 department may rescind an exemption when the department determines that it is  
24 possible to substitute a less harmful alternative for the substance.

**SENATE BILL 367****SECTION 7**

1           (c) The department may promulgate rules specifying substances that are  
2 harmful to human health or the environment, in addition to the substances in par.  
3 (a) 1. to 7., that may not be contained in covered electronic equipment sold in this  
4 state. In a rule promulgated under this subsection, the department shall specify a  
5 date, at least 6 months after the rule is promulgated, after which covered electronic  
6 equipment containing the substance may not be sold in this state.

7           **(15m) GRANT PROGRAM.** (a) The department shall make grants for the  
8 development of facilities and systems for the recycling of covered electronic waste.

9           (b) The department shall promulgate rules for the grant program under this  
10 subsection.

11           **(16) DEPARTMENT AUTHORITY.** (a) The department may contract with any person  
12 for services to implement this section.

13           (b) The department may promulgate rules specifying additional requirements  
14 that apply to a producer the 2nd or subsequent time that the producer fails to remedy  
15 deficiencies in its program by a deadline set by the department.

16           (c) The department may conduct educational activities about the program  
17 under this section.

18           **(17) REPORT.** If a federal law is enacted related to the disposal of electronic  
19 devices, the department shall prepare a report describing the law and the effect of  
20 the law on the program under this section. The department shall provide the report  
21 to the chief clerks of the legislature for distribution to the appropriate standing  
22 committees under s. 13.172 (3) no later than the first day of the 6th month beginning  
23 after the federal law takes effect.

**SENATE BILL 367**

1           **(18) PENALTIES.** (a) Any producer that violates this section may be required to  
2           forfeit not more than \$10,000 for each violation. Except as provided in par. (b), any  
3           person other than a producer that violates this section is not subject to a penalty.

4           (b) 1. The department may provide written notice, by personal service or 1st  
5           class mail, to a person who sells covered electronic equipment at retail that it is  
6           illegal to sell a producer's covered electronic equipment under sub. (4), (6), (8), (11)  
7           (b) or (c), or (13) or that it is illegal to sell a specified model of covered electronic  
8           equipment under sub. (15) (a).

9           2. If a person sells covered electronic equipment described in a notice under  
10          subd. 1. more than 30 days after the day on which the person received the notice  
11          under subd. 1. and before the producer remedies the violation that resulted in it  
12          being illegal to sell the covered electronic equipment, the person may be required to  
13          forfeit not more than \$10,000 for each sale.

14          **SECTION 8.** 287.91 (2) of the statutes is amended to read:

15          287.91 **(2)** Notwithstanding sub. (1) and s. 287.95 (3) (a), the attorney general  
16          may enforce s. 287.07 (3) ~~and, (4), and (5)~~ by seeking injunctive relief against any  
17          person violating those provisions.

18          **SECTION 9.** 287.97 of the statutes is amended to read:

19          **287.97 Penalties.** Any person who violates this chapter, except s. 287.07,  
20          287.08, ~~287.17~~, or 287.81, or any rule promulgated under this chapter, except under  
21          s. 287.07, 287.08, ~~287.17~~, or 287.81, may be required to forfeit not less than \$10 nor  
22          more than \$1,000 for each violation.

23

**(END)**