

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend the Code of Virginia by adding in Chapter 14 of Title 10.1 an article numbered 3.7,
2 consisting of sections numbered 1425.39 through 1425.48, relating to television recycling.

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

4 **1. That the Code of Virginia is amended by adding in Chapter 14 of Title 10.1 an article**
5 **numbered 3.7, consisting of sections numbered 1425.39 through 1425.48 as follows:**

6 Article 3.7.

7 Television Recovery and Recycling Act

8 § 10.1-1425.39. Definitions.

9 As used in this article, unless the context requires a different meaning:

10 “Brand” means symbols, words, or marks that identify a covered television, rather than any of its
11 components.

12 “Collect” or “collection” means to collect a covered television, including, but not limited to,
13 collection through a mail-back program, collection site, or collection event.

14 “Consumer” means any individual who uses a covered television that is purchased primarily for
15 personal or home business use.

16 “Covered television” means a direct view or projection television with a viewable screen of nine
17 inches or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal
18 (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display
19 (SXRD) light emitting diode (LED), or similar technology marketed and intended for use by a
20 consumer, but does not include computer equipment as defined in § 10.1-1425.27. Covered television
21 does not include any of the following:

22 1. Electronic devices that are part of a motor vehicle or any component part of a motor vehicle
23 assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in
24 a motor vehicle;

25 2. Electronic devices that are functionally or physically a part of, or connected to or integrated
26 within a larger piece of equipment designed and intended for use in an industrial, governmental,
27 commercial, research and development, or medical setting, (including diagnostic, monitoring, or other
28 medical products as that term is defined under the Federal Food, Drug, and Cosmetic Act) or equipment
29 used for security, sensing, monitoring, or anti-terrorism or emergency services purposes;

30 3. Electronic devices that are contained within a clothes washer, clothes dryer, refrigerator,
31 refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner,
32 dehumidifier, air purifier, or exercise equipment;

33 4. Telephones of any type (including mobile);

34 5. Personal digital assistants (PDA); and

35 6. Global positioning systems (GPS).

36 “Department” means the Department of Environmental Quality.

37 “Market share” means a television manufacturer’s prior year’s sales of covered televisions in
38 weight, expressed as a percentage of the total of all television manufacturers’ prior year’s state sales
39 weight for all covered televisions based on a state population proration derived from national sales data.

40 “Program year” means a full calendar year beginning on or after January 1, 2011.

41 “Recover” means to reuse or recycle.

42 “Recoverer” means a person or entity that reuses or recycles covered televisions.

43 “Recycle” means processing (including disassembling, dismantling, and shredding) covered
44 televisions or their components to recover a useable product. Recycling does not include any process
45 defined as incineration under applicable laws and regulations.

46 “Retailer” means a person who owns or operates a business that sells covered televisions directly
47 to a consumer, including through sales outlets, catalogs, or the Internet, whether or not the seller has a
48 physical presence in this state.

49 “Sell”, “offer for sale”, or “sale” means any transfer for consideration of title including, but not
50 limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar
51 electronic means, but does not mean financing or leasing.

52 “Television” means any telecommunication system device that can receive moving pictures and
53 sound broadcast over a distance and includes a TV tuner. Display devices that are peripheral to a
54 computer but nevertheless contain a TV tuner are considered televisions.

55 “Television manufacturer” or "manufacturer" means a person who: (i) manufactures covered
56 televisions under a brand that it licenses or owns, for sale in the Commonwealth; (ii) manufactures
57 covered televisions without affixing a brand for sale in the Commonwealth; (iii) resells into the
58 Commonwealth covered televisions under a brand it owns or licenses produced by other suppliers, this
59 includes retail establishments that sell covered televisions under a brand the retailer owns or licenses;
60 (iv) imports into the United States or exports from the United States a covered television for sale in the
61 Commonwealth; (v) sells at retail a covered television acquired from an importer that is the
62 manufacturer as described in subdivision (iv) of this definition, and elects to register in lieu of the
63 importer as the manufacturer for those products; (vi) manufactures covered televisions, supplies them to
64 any person or persons within a distribution network that includes wholesalers or retailers in the
65 Commonwealth, and benefits from the sale in the Commonwealth of those covered televisions through
66 such distribution network; or (vii) assumes the responsibilities and obligations of a television
67 manufacturer under this article. In the event the television manufacturer is one who manufactures, sells,
68 or resells under a brand it licenses, the licensor or brand owner of such brand shall not be included in the
69 definition of television manufacturer under subdivision (i) or (v) of this definition.

70 § 10.1-1425.40. Applicability.

71 The collection and recovery provisions of this article apply to covered television televisions used
72 and returned by consumers in the Commonwealth.

73 § 10.1-1425.41. Television manufacturer responsibilities.

74 A. No television manufacturer shall sell or offer for sale a covered television in the
75 Commonwealth unless the television manufacturer includes the television manufacturer’s name and
76 brand, whether owned or licensed, on the covered television.

77 B. Beginning July 1, 2010 each television manufacturer shall pay to the Department an annual
78 registration fee of two thousand five dollars (\$2,500) to be used to cover any administrative costs

79 associated with implementing this article and submit an annual report containing a list of all of the
80 brands the television manufacturer is using on its covered televisions, regardless of whether it owns or
81 licenses the brand.

82 C. Beginning July 1, 2010 each television manufacturer shall participate in and finance a state-
83 wide covered television recycling program to collect and recover covered televisions. The state-wide
84 recycling program shall accept all types and all brands of televisions.

85 D. Beginning July 1, 2010 a television manufacturer must annually recycle or arrange for the
86 recycling of its market share allocation of covered televisions. The obligation to recycle covered
87 televisions shall be allocated to each covered television manufacturer based on the television
88 manufacturer's market share multiplied by the total weight, in pounds, of covered televisions collected
89 and recycled in the Commonwealth by all television manufacturers in the previous year.

90 E. Covered television manufacturers:

91 1. Shall conduct and document due diligence assessments of collectors and recyclers it contracts
92 with, including an assessment of the recoverer's compliance with guidelines adopted by the Department
93 pursuant to § 10.1-1425.45. A television manufacturer is responsible for maintaining, for a period of
94 three years, documentation that all covered televisions recycled, partially recycled, or sent to
95 downstream recycling operations comply with the guidelines adopted in § 10.1-1425.45.

96 2. Shall provide the Department with contact information for a person who can be contacted
97 regarding the television manufacturer's activities to comply with the requirements of this article.

98 3. May organize recycling under this section either individually or collectively with other
99 covered television manufacturers.

100 4. Beginning July 1, 2011, and annually each year thereafter, report covered television sales for
101 the previous year's sales in the state to the Department and report the total weight of covered televisions
102 it collected and recycled in the Commonwealth during the previous year to the Department.

103 § 10.1-1425.42. Retailer responsibilities.

104 No retailer shall sell or offer for sale a covered television in the Commonwealth unless the
105 covered television has a proper manufacturer label, including the manufacturer's brand and name and
106 such television's manufacturer is included on the state list of manufacturers with recovery plans.

107 § 10.1-1425.43. Department responsibilities.

108 A. The Department shall host, or designate another person to host, a website educating
109 consumers about covered television recovery for consumers, with information about and links to
110 manufacturers' collection and recovery information, including their recovery plans, and information
111 about and links to information about collection events, collection sites, and community recycling
112 programs for covered televisions. Inclusion on the Department's website is not a determination by the
113 Department that the manufacturer's recovery plan or actual recovery is in compliance with this article or
114 other laws.

115 B. By September 1, 2010, the Department shall notify all covered television manufacturers of the
116 market share allocation. The market share allocation shall be based on the total weight of covered
117 televisions recycled in the previous year, multiplied by the market share for that manufacturer. The total
118 covered televisions recycled shall be determined using the annual reports from the covered television
119 manufacturers.

120 C. Financial or proprietary information submitted to the Department under this article is exempt
121 from public disclosure.

122 D. The Department shall compile the information from covered manufacturers and issue a report
123 to the General Assembly by April 1 each year, beginning with the second program year.

124 E. The Department shall use any money received from penalties or failure of covered television
125 manufacturers to meet recovery obligations to offset costs associated with administering the program
126 and to provide grants to local governments collecting covered televisions.

127 F. The Department does not have the authority to assess any fees, including an advanced
128 recycling fee, registration fee, or other fee, on consumers, manufacturers, retailers, or recoverers for
129 collection or recovery of covered televisions except those explicitly authorized in this article.

130 G. The Department may adopt such rules and regulations as are necessary to implement the
131 provisions of this article.

132 § 10.1-1425.44. Consumer responsibilities

133 A consumer is responsible for any information in any form left on the consumer's covered
134 television that is collected, recycled, or reused.

135 § 10.1-1425.45. Sound environmental management

136 A. All covered televisions collected pursuant to this article shall be recovered in a manner that is
137 in compliance with all applicable federal, state, and local laws and requirements.

138 B. The Department shall adopt by reference the EPA's Plug-In to eCycling Guidelines for
139 Materials Management as a requirement for all covered television recoverers.

140 § 10.1-1425.46 Enforcement and penalties.

141 A. The Department may conduct audits and inspections to determine compliance under this
142 article. The Office of the Attorney General may enforce the provisions of this article by taking
143 enforcement action against a manufacturer or retailer that fails to comply with this article.

144 B. Any covered manufacturer who fails to label its covered televisions as required by subdivision
145 A of § 10.1-1425.41 or fails to recycle or arrange for the recycling of its market share allocation of
146 covered televisions pursuant to subdivision D of § 10.1-1425.41, may be assessed a penalty of up to ten
147 thousand dollars (\$10,000) for the first violation and up to twenty-five thousand dollars (\$25,000) for
148 the second and each subsequent violation, in addition to being responsible for any penalties required in
149 subdivision C of this section.

150 C. Beginning with the second program year, if a covered television manufacturer fails to recycle
151 its market share allocation, the Department shall impose a penalty on the covered television
152 manufacturer a penalty of \$0.50 per pound for each pound not met.

153 D. Except as provided in subdivisions B and C, any person who violates any requirement of this
154 article may be assessed a penalty of up to one thousand dollars (\$1,000) for the first violation and up to
155 two thousand dollars (\$2,000) for the second and each subsequent violation, in addition to being
156 responsible for any other penalties required by or imposed pursuant to this article.

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E. Penalties shall be paid to the Department.

§ 10.1-1425.47. State procurement.

A. Any person who submits a bid for a contract with a state agency for the purchase or lease of covered televisions must show that the brand of the covered television is in compliance with this article.

B. A state agency that purchases or leases covered televisions shall require each prospective bidder to certify compliance with this article. Failure to provide such certification shall render the prospective bidder ineligible to bid on the procurement of covered televisions.

C. The Department of General Services shall adopt rules to implement the provisions of this section.

§ 10.1-1425.48. Federal Preemption.

This article shall be deemed repealed if a federal law or a combination of federal laws takes effect that establishes a national program for the collection and recycling of covered televisions that substantially meet the intent of this article.

2. That the provisions of this act shall become effective on July 1, 2010.

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