**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 10 TO CHAPTER 56, TITLE 44, TO ENACT THE “ELECTRONIC WASTE MANAGEMENT ACT” SO AS TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL SHALL PROMULGATE REGULATIONS IDENTIFYING ELECTRONIC DEVICES THAT ARE PRESUMED TO BE HAZARDOUS WASTE WHEN DISCARDED; TO ESTABLISH CONSUMER ELECTRONIC WASTE RECYCLING FEES ON THE PURCHASE OF THESE ELECTRONIC DEVICES, WHICH FEE MAY BE PAID BY THE RETAILER; TO REQUIRE THE MANUFACTURER OF THESE DEVICES TO NOTIFY RETAILERS OF THE FEES THAT MUST BE COLLECTED AT THE SALE OF THESE DEVICES; TO ESTABLISH THE ELECTRONIC WASTE RECOVERY AND RECYCLING FUND; TO ESTABLISH ELECTRONIC WASTE RECOVERY PAYMENTS TO BE PAID TO AUTHORIZED COLLECTORS OF ELECTRONIC WASTE TO OPERATE FREE ELECTRONIC WASTE COLLECTION, CONSOLIDATING, AND TRANSPORTING SYSTEMS; TO ESTABLISH ELECTRONIC WASTE RECYCLING PAYMENTS TO BE PAID TO RECYCLERS WHO RECEIVE ELECTRONIC WASTES FROM AUTHORIZED COLLECTORS; TO REQUIRE MANUFACTURERS OF ELECTRONIC DEVICES TO ANNUALLY REPORT TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL ON THE TYPE OF DEVICES SOLD THAT CONTAIN ELECTRONIC WASTE AND THE REDUCTION IN MANUFACTURING THESE DEVICES; TO REQUIRE MANUFACTURERS TO PROVIDE INFORMATION TO CONSUMERS DESCRIBING HOW AND WHERE TO RETURN, RECYCLE, AND DISPOSE OF ELECTRONIC DEVICES; TO ESTABLISH REPORTING REQUIREMENTS FOR THE EXPORTATION OF ELECTRONIC WASTE; TO ESTABLISH CIVIL PENALTIES FOR VIOLATIONS; TO PROVIDE THAT THE DEPARTMENT SHALL ESTABLISH AND UPDATE STATEWIDE RECYCLING GOALS; TO ESTABLISH REQUIREMENTS FOR STATE PROCUREMENT OF ELECTRONIC DEVICES; AND TO PROVIDE THAT THIS ARTICLE MUST NOT BE IMPLEMENTED IF FEDERAL LAW TAKES EFFECT REGULATING ELECTRONIC WASTE OR IF A COURT ISSUES A JUDGMENT HOLDING THAT OUT‑OF‑STATE MANUFACTURERS OF ELECTRONIC DEVICES OR RETAILERS MAY NOT BE REQUIRED TO COLLECT THE ELECTRONIC WASTE FEE ESTABLISHED PURSUANT TO THIS ARTICLE.

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

SECTION 1. The General Assembly finds that:

(1) The purpose of this article is to enact a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of electronic devices presumed to be a hazardous waste when discarded, and to provide incentives to design electronic devices that are less toxic, more recyclable, and that use recycled materials.

(2) It is the further purpose of this article to enact a law that establishes a program that is cost free and convenient for consumers and the public to return, recycle, and ensure the safe and environmentally sound disposal of electronic devices.

(3) It is the intent of the General Assembly that the cost associated with the handling, recycling, and disposal of electronic devices is the responsibility of the producers and consumers of electronic devices, and not local government or their service providers, state government, or taxpayers.

(4) In order to reduce the likelihood of illegal disposal of these hazardous materials, it is the intent of this article to ensure that any cost associated with the proper management of electronic devices be internalized by the producers and consumers of electronic devices at or before the point of purchase, and not at the point of discard.

(5) Manufacturers of electronic devices, in working to achieve the goals and objectives of this article, should have the flexibility to partner with each other and with those public sector entities and business enterprises that currently provide collection and processing services to develop and promote a safe and effective electronic device recycling system for South Carolina.

(6) The producers of electronic products, components, and devices should reduce and, to the extent feasible, ultimately phase out the use of hazardous materials in those products.

(7) Electronic products, components, and devices, to the greatest extent feasible, should be designed for extended life, repair, and reuse.

SECTION 2. Chapter 56, Title 44 of the 1976 Code is amended by adding:

“Article 10

Electronic Waste Management

Section 44‑56‑900. This article may be cited as the ‘Electronic Waste Management Act’.

Section 44‑56‑905. For the purposes of this article:

(1) ‘Authorized collector’ means:

(a) a city, county, or district that collects electronic devices;

(b) a person or entity that is required or authorized by a city, county, or district to collect electronic devices pursuant to the terms of a contract, license, permit, or other written authorization;

(c) a nonprofit organization that collects or accepts electronic devices;

(d) a manufacturer or agent of the manufacturer that collects, consolidates, and transports electronic devices for recycling from consumers, businesses, institutions, and other generators;

(e) an entity that collects, handles, consolidates, and transports electronic devices and has filed applicable notifications with the department in accordance with regulations promulgated by the department.

(2) ‘Consumer’ means a person who purchases a new or refurbished electronic device in a transaction that is a retail sale or in a transaction to which a use tax applies.

(3) ‘Department’ means the Department of Health and Environmental Control.

(4) ‘Discarded’ means an electronic device that:

(a) is relinquished by being any of the following:

(i) disposed of;

(ii) burned or incinerated;

(iii) accumulated, stored, or treated, but not recycled, before, or in lieu of, being relinquished by being disposed of, burned, or incinerated;

(b) is recycled, or accumulated, stored, or treated before recycling;

(c) poses a threat to public health or the environment and meets either, or both, of the following conditions:

(i) it is mislabeled or not adequately labeled, unless the device is correctly labeled or adequately labeled within 10 days after the device is discovered to be mislabeled or inadequately labeled.

(ii) it is packaged in deteriorated or damaged containers, unless the device is contained in sound or undamaged containers within ninety‑six hours after the containers are discovered to be deteriorated or damaged;

(d) is considered inherently waste‑like, as specified in regulations adopted by the department.

(5)(a) Except as provided in item (5)(b), ‘electronic device’ means a video display device containing a screen greater than four inches, measured diagonally, that the Department of Health and Environmental Control in regulation promulgated pursuant to Section 44‑56‑910, has presumed to be a hazardous waste when discarded.

(b) ‘Electronic device’ does not include:

(i) a video display device that is a part of a motor vehicle, or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(ii) a video display device that is contained within, or a part of a piece of industrial, commercial, or medical equipment, including monitoring or control equipment;

(iii) a video display device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier;

(iv) an electronic device, on and after the date that it ceases to be an electronic device subject to the provisions of this article pursuant to Section 44‑56‑915(B).

(6) ‘Electronic waste’ means an electronic device that is discarded.

(7) ‘Electronic waste recovery payment’ means an amount established and paid by the department pursuant to Section 44‑56‑940.

(8) ‘Electronic waste recycler’ means any of the following:

(a) a person who engages in the manual or mechanical separation of electronic devices to recover components and commodities contained therein for the purpose of reuse or recycling;

(b) a person who changes the physical or chemical composition of an electronic device, in accordance with regulations promulgated by the department, by deconstructing, size reduction, crushing, cutting, sawing, compacting, shredding, or refining for purposes of segregating components, for purposes of recovering or recycling those components, and who arranges for the transport of those components to an end user; or

(c) a manufacturer who meets any conditions established by this article and regulations promulgated by the department for the collection or recycling of electronic waste.

(9) ‘Electronic waste recycling fee’ means the fee imposed pursuant to this article.

(10) ‘Electronic waste recycling payment’ means an amount established and paid by the department pursuant to Section 44‑56‑945.

(11) ‘Fund’ means the Electronic Waste Recovery and Recycling Fund established pursuant to Section 44‑56‑935.

(12) ‘Hazardous material’ has the same meaning as defined in Section 44‑56‑20.

(13) ‘Manufacturer’ means a person who:

(a) manufactures an electronic device sold in this State;

(b) sells an electronic device in this State under that person’s brand name.

(14) ‘Person’ means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a partnership, limited liability company, and association, and also includes this State and a political subdivision of this State.

(15) ‘Recycling’ has the same meaning as defined in Section 44‑96‑40.

(16) ‘Refurbished’, when used to describe an electronic device, means a device that the manufacturer has tested and returned to a condition that meets factory specifications for the device, has been repackaged, and labeled as refurbished.

(17) ‘Retailer’ means a person who makes a retail sale of a new or refurbished electronic device. ‘Retailer’ includes a manufacturer of an electronic device who sells that electronic device directly to a consumer through any means including, but not limited to, a transaction conducted through a sales outlet, catalog, or the Internet, or any other similar electronic means.

(18) ‘Retail sale’ has the same meaning as defined in Section 12‑36‑110.

(19) ‘Video display device’ means an electronic device with an output surface that displays, or is capable of displaying, moving graphical images or a visual representation of image sequences or pictures, showing a number of quickly changing images on a screen in fast succession to create the illusion of motion including, if applicable, a device that is an integral part of the display, in that it cannot be easily removed from the display by the consumer, that produces the moving image on the screen. A video display device may use, but is not limited to, a cathode ray tube, liquid crystal display, gas plasma, digital light processing, or other image projection technology.

Section 44‑56‑910. (A) The department shall promulgate regulations that identify electronic devices that the department determines are presumed to be, when discarded, a hazardous waste pursuant to this article. The regulations also must include:

(1) procedures for a manufacturer of an electronic device to seek a concurrence from the department that the electronic device is not hazardous waste when discarded;

(2) cancellation methods for the recovery, processing, and recycling of electronic waste.

(B) The department shall administer and enforce the provisions of this article.

Section 44‑56‑915. (A)(1) Except as provided in subsection (C), a manufacturer of an electronic device shall send a notice in accordance with the schedule specified in Subsection (B)(3)(a) or (b), as applicable, to any retailer that sells that electronic device manufactured by the manufacturer. The notice must identify the electronic device and must inform the retailer that the electronic device is subject to the provisions of this article and is subject to a fee in accordance with Section 44‑96‑930.

(2) A manufacturer subject to this subsection also shall send a copy of the notice to the department.

(3) The notice required by this subsection must be sent in accordance with this schedule:

(a) Before October 1, 2010, the manufacturer shall send a notice covering any electronic device manufactured by that manufacturer.

(b) Before April 1, 2011, and before every April first of each year thereafter, the manufacturer shall send a notice covering any electronic device manufactured by that manufacturer.

(4) If a retailer sells a refurbished electronic device, the manufacturer is required to comply with the notice requirement of this subsection only if the manufacturer directly supplies the refurbished electronic device to the retailer.

(B)(1) If the manufacturer of an electronic device obtains the concurrence of the department, in accordance with procedures provided for in regulation, that the electronic device, when discarded, would not be a hazardous waste, the electronic device ceases to be an electronic device subject to the provisions of this article on the first day of the quarter that begins not less than thirty days after the date that the department provides the manufacturer with a written nonhazardous concurrence for the electronic device pursuant to this subsection.

(2) A manufacturer shall notify each retailer, to which that manufacturer has sold an electronic device, that the device has been determined pursuant to this subsection to be nonhazardous and is no longer subject to an electronic recycling fee.

(3) No later than ten days after the date that the department issues a written nonhazardous concurrence to the manufacturer, the department shall post on the department’s web site a copy of the nonhazardous concurrence including, but not limited to, an identification and description of the electronic device to which the concurrence applies.

(C) Notwithstanding Section 44‑56‑965, a fine or penalty must not be assessed on a retailer who unknowingly sells, or offers for sale, in this State an electronic device for which the electronic waste recycling fee has not been collected or paid, if the failure to collect the fee was due to the failure of the manufacturer to inform the retailer that the electronic device was subject to the fee.

Section 44‑56‑920. After December 31, 2010, a person must not sell a new or refurbished electronic device to a consumer in this State if the department determines that the manufacturer of that electronic device is not in compliance with this article.

Section 44‑56‑925. After December 31, 2010, a person must not sell or offer for sale in this State a new or refurbished electronic device unless the device is labeled with the name of the manufacturer or the manufacturer’s brand label, so that it is readily visible.

Section 44‑56‑930. (A) After December 31, 2010, a consumer shall pay the following electronic waste recycling fees upon the purchase of new or refurbished electronic devices:

(1) six dollars for each electronic device with a screen size of less than fifteen inches measured diagonally;

(2) eight dollars for each electronic device with a screen size greater than or equal to fifteen inches but less than thirty five inches measured diagonally;

(3) ten dollars for each electronic device with a screen size greater than or equal to thirty five inches measured diagonally.

(B) Except as provided in subsection (D), a retailer shall collect from the consumer an electronic waste recycling fee at the time of the retail sale of an electronic device.

(C) A retailer may retain three percent of the electronic waste recycling fee as reimbursement for all costs associated with the collection of the fee and shall transmit the remainder of the fee to the State in accordance with this section.

(D) If a retailer elects to pay the electronic waste recycling fee on behalf of the consumer, the retailer shall provide an express statement to that effect on the receipt given to the consumer at the time of sale. If a retailer elects to pay the electronic waste recycling fee on behalf of the consumer, the fee is a debt owed by the retailer to the State, and the consumer is not liable for the fee.

(E) The retailer shall separately state the electronic waste recycling fee on the receipt given to the consumer at the time of sale.

(F) The retailer shall submit the electronic waste recycling fee in the manner, on a schedule, and in such form as the department prescribes.

(G) Before July 1, 2011, and thereafter, annually, the department, shall review, at a public hearing, the electronic waste recycling fee and shall make any adjustments, pursuant to emergency regulation, to the fee to ensure that there are sufficient revenues in the Electronic Waste Recovery and Recycling Fund to fund the electronic waste recycling program established pursuant to this article. Notwithstanding the Administrative Procedures Act, these emergency regulations may be refiled for an additional ninety days regardless of when the initial ninety day period for the emergency regulations began or expired. The department shall base an adjustment of the electronic waste recycling fee on:

(1) the sufficiency, and any surplus, of revenues in the fund to fund the collection, consolidation, and recycling of electronic waste that is projected to be recycled in this State; and

(2) the sufficiency of revenues in the fund for the department to administer, enforce, and promote the program established pursuant to this article, plus a reserve not to exceed five percent of the amount in the fund.

Section 44‑56‑935. (A) The Electronic Waste Recovery and Recycling Fund is established, and all fees and fines collected pursuant to this article must be deposited in the fund and used to:

(1) administer and enforce the provisions of this article;

(2) pay refunds of the electronic waste recycling fee imposed under Section 44‑56‑930;

(3) make electronic waste recovery payments to an authorized collector of electronic waste pursuant to Section 44‑56‑950;

(4) make electronic waste recycling payments to electronic waste recyclers pursuant to Section 44‑56‑950;

(5) make payments to manufacturers pursuant to subsection (C).

(B) The department may pay an electronic waste recycling payment or electronic waste recovery payment for electronic waste only if all of the following conditions are met:

(1) The electronic waste, including any residuals from the processing of the waste, is handled in compliance with all applicable statutes and regulations.

(2) The manufacturer or the authorized collector or recycler of the electronic waste provide a cost free and convenient opportunity to recycle electronic waste.

(3) If the electronic waste is processed, the electronic waste is processed in this State according to the cancellation method authorized by the department in regulation.

(4) The department declares that this State is a market participant in the business of the recycling of electronic waste for all these reasons:

(a) the fee is collected from the state’s consumers for electronic devices sold for use in this State;

(b) the purpose of the fee and subsequent payments is to prevent damage to the public health and the environment from waste generated in this State;

(c) the recycling system funded by the fee ensures that economically viable and sustainable markets are developed and supported for recovered materials and components in order to conserve resources and maximize business and employment opportunities within this State.

(C)(1) The department may make a payment to a manufacturer that takes back an electronic device from a consumer in this State for purposes of recycling the device at a processing facility. The amount of the payment made by the department must equal the value of the electronic waste recycling fee paid for that device. To qualify for a payment pursuant to this subsection, the manufacturer shall demonstrate to the department that:

(a) the electronic device for which payment is claimed was used in this State; and

(b) the electronic waste for which a payment is claimed, including any residuals from the processing of the waste, has been, and will be, handled in compliance with all applicable statutes and regulations.

(2) An electronic device for which a payment is made under this subsection is not eligible for an electronic waste recovery payment or an electronic waste recycling payment under Section 44‑56‑950.

Section 44‑56‑940. (A) On July 1, 2010, and on July first every two years thereafter, the department shall establish an electronic waste recovery payment schedule for electronic wastes generated in this State to cover the net cost for an authorized collector to operate a free and convenient system for collecting, consolidating and transporting electronic wastes generated in this State.

(B) The department shall make the electronic waste recovery payments either directly to an authorized collector or to an electronic waste recycler for payment to an authorized collector pursuant to this article.

Section 44‑56‑945. (A) Except as provided in subsection (B), on July 1, 2010, and on July first every two years thereafter, the department shall establish an electronic waste recycling payment schedule for electronic wastes generated in this State to cover the average net cost for an electronic waste recycler to receive, process, and recycle each major category, as determined by the department, of electronic waste received from an authorized collector. The department shall make the electronic waste recycling payments to an electronic waste recycler pursuant to this article.

(B) Until the department adopts a new payment schedule that covers the average net cost for an electronic waste recycler to receive, process, and recycle each major category, as determined by the department of electronic waste received from an authorized collector, the amount of the electronic waste recycling payment must be equal to twenty‑eight cents per pound of the total weight of electronic waste received from an authorized collector and subsequently processed for recycling.

Section 44‑56‑950. (A)(1) For electronic waste collected for recycling after December 31, 2010, the department shall make electronic waste recovery payments and electronic waste recycling payments for the collection and recycling of electronic waste to an authorized collector or electronic waste recycler, respectively, upon receipt of a completed and verified invoice submitted to the department by the authorized collector or recycler in the form and manner determined by the department.

(2) To the extent authorized pursuant to Section 44‑56‑940, an electronic waste recycler shall make the electronic waste recovery payments to an authorized collector upon receipt of a completed and verified invoice submitted to the recycler by the authorized collector in the form and manner determined by the department.

(B) An electronic waste recycler is eligible for a payment pursuant to this section only if the electronic waste recycler:

(1) is in compliance with applicable recycling requirements provided for in regulation;

(2) demonstrates to the department that any facility utilized by the electronic waste recycler for the handling, processing, refurbishment, or recycling of electronic devices meets these standards:

(a) the facility has been inspected by the department within the past twelve months and had been found to be operating in conformance with all applicable laws, regulations, and ordinances;

(b) the facility is accessible during normal business hours for unannounced inspections by state or local agencies;

(c) the facility has health and safety, employee training, and environmental compliance plans and certifies compliance with the plans; and

(d) the facility meets or exceeds the requirements of applicable labor, employment and workers’ compensation laws or, if all or part of the work is to be performed in another state, the equivalent requirements of that state.

Section 44‑56‑955. (A) Before July 1, 2011, and at least once annually thereafter as determined by the department, each manufacturer of an electronic device sold in this State shall:

(1) submit to the department a report that includes:

(a) an estimate of the number of electronic devices sold by the manufacturer in this State during the previous year;

(b) a baseline or set of baselines that show the total estimated amounts of mercury, cadmium, lead, hexavalent chromium, and PBB’s used in electronic devices manufactured by the manufacturer in that year and the reduction in the use of those hazardous materials from the previous year;

(c) a baseline or set of baselines that show the total estimated amount of recyclable materials contained in electronic devices sold by the manufacturer in that year and the increase in the use of those recyclable materials from the previous year;

(d) a baseline or a set of baselines that describe any efforts to design electronic devices for recycling and goals and plans for further increasing design for recycling;

(e) a list of those retailers including, but not limited to, Internet and catalog retailers, to which the manufacturer provided a notice in the prior twelve months pursuant to Section 44‑56‑915;

(2) make information available to consumers, that describes where and how to return, recycle, and dispose of the electronic device and opportunities and locations for the collection or return of the device, through the use of a toll‑free telephone number, Internet web site, information labeled on the device, information included in the packaging, or information accompanying the sale of electronic device.

(B) Any information submitted to the department pursuant to subsection (A) that is proprietary in nature or a trade secret is subject to protection under state laws and regulations governing that information.

Section 44‑56‑960. (A) A person who exports electronic waste, or an electronic device intended for recycling or disposal, to a foreign country, or to another state for ultimate export to a foreign country, shall at least sixty days before export:

(1) notify the department of the destination, disposition, contents, and volume of the waste, or device intended for recycling or disposal to be exported, and include with the notification the demonstrations required pursuant to items (2) through (5);

(2) demonstrate that the waste or device is being exported for the purposes of recycling or disposal;

(3) demonstrate that the importation of the waste or device is not prohibited by an applicable law in the state or country of destination and that any import will be conducted in accordance with all applicable laws. As part of this demonstration, required import and operating licenses, permits, or other appropriate authorization documents must be forwarded to the department;

(4) demonstrate that the exportation of the waste or device is conducted in accordance with applicable United States or applicable international law;

(5) demonstrate that the waste or device will be managed within the country of destination only at facilities whose operations meet or exceed the binding decisions and implementing guidelines of the Organization for Economic Cooperation and Development for the environmentally sound management of the waste or device being exported even if the country of destination is not a member of the Organization for Economic Cooperation and Development.

(B) Subsection (A) does not apply to a component part of an electronic device that is exported to an authorized collector or recycler and that is reused or recycled into a new electronic component.

Section 44‑56‑965. (A) Civil liability in an amount of up to two thousand five hundred dollars for each offense may be administratively imposed by the department for each sale of an electronic device for which an electronic waste recycling fee has not been paid pursuant to Section 44‑56‑930.

(B) A civil penalty in an amount of up to five thousand dollars for each offense may be imposed by the court for each sale of an electronic device for which an electronic waste recycling fee has not been paid pursuant to Section 44‑56‑930.

(C) Civil liability in an amount of up to twenty‑five thousand dollars may be administratively imposed by the department against manufacturers for failure to comply with this article, except as otherwise provided in subsection (A).

Section 44‑56‑970. (A) The department shall annually establish, and update as necessary, statewide recycling goals for electronic waste. In implementing this section, the department shall:

(1) post on its web site information on the amount of electronic devices sold in this State in the previous year as reported to the department;

(2) post on its web site information on the amount of electronic waste recycled in this State in the previous year as reported to the department;

(3) develop and adopt recycling goals, with input from manufacturers, retailers, electronic waste recyclers, and collectors, that reflect projections of electronic device sales, rates of obsolescence, and stockpiles.

(B) Nothing in this section authorizes the department to establish any recycling rates or dates by which a manufacturer of electronic devices shall comply with this article, or to impose any other recycling goal or target on a manufacturer of those devices.

Section 44‑56‑975. (A)(1) A state agency that purchases or leases electronic devices shall require each prospective bidder, to certify that it, and its agents, subsidiaries, partners, joint venturers, and subcontractors for the procurement, have complied with this article and any regulations adopted pursuant to this article, or to demonstrate that this article is inapplicable to all lines of business engaged in by the bidder, its agents, subsidiaries, partners, joint venturers, or subcontractors.

(2) The certification requirement set forth in subsection (A)(1) does not apply to a credit card purchase of goods of two thousand five hundred dollars or less. The total amount of exemption authorized in this subsection may not exceed seven thousand five hundred dollars per year for each company from which a state agency is purchasing goods by credit card. Each state agency shall monitor the use of this exemption and adhere to these restrictions on these purchases.

(B) Failure to provide certification pursuant to this section renders the prospective bidder and its agents, subsidiaries, partners, joint venturers, and subcontractors ineligible to bid on the procurement of electronic devices.

(C) The bid solicitation documents must specify that the prospective bidder is required to cooperate fully in providing reasonable access to its records and documents that evidence compliance with this article.

(D) A person awarded a contract by a state agency that is found to be in violation of this section is subject to the following sanctions:

(1) The state agency to which the equipment, materials, or supplies were provided shall void the contract.

(2) The contractor is ineligible to bid on any state contract for a period of three years.

(3) If the Attorney General establishes that any money, property, or benefit was obtained by a contractor as a result of violating this section, the court may, in addition to any other remedy, order the disgorgement of the unlawfully obtained money, property, or benefit in the interest of justice.

Section 44‑56‑980. Except as provided in Section 44‑56‑985, the department must not implement this article if either of the following occur:

(1) a federal law, or a combination of federal laws, takes effect and does all of the following:

(a) establishes a program for the collection, recycling, and proper disposal of electronic waste that is applicable to all electronic devices sold in the United States;

(b) provides revenues to the State to support the collection, recycling, and proper disposal of electronic waste, in an amount that is equal to, or greater than, the revenues that would be generated by the fee imposed under Section 44‑56‑930; and

(c) requires electronic device manufacturers, retailers, handlers, processors, and recyclers to dispose of those devices in a manner that is in compliance with all applicable federal, state, and local laws, and prohibits the devices from being exported for disposal in a manner that poses a significant risk to the public health or the environment;

(2) a trial court issues a judgment, which is not appealed, or an appellate court issues an order affirming a judgment of a trial court, holding that out‑of‑state manufacturers or retailers, or both, may not be required to collect the fee authorized by this article. The out‑of‑state manufacturers or retailers, or both, shall continue to collect the fee during the appellate process.

Section 44‑56‑985. (A) Except as provided in subsection (B), the provisions of this article become inoperative on the date that either of the events described in Section 44‑56‑980(A) or (B) occurs, and if both occur, the earlier date.

(B) On the date specified in subsection (A), the provisions of this article remain operative only for the collection of fees, the liability for which accrued prior to that date, making refunds, effecting credits, the disposition of monies collected, and commencing an action or proceeding pursuant to this article.”

SECTION 3. Except as otherwise provided for in this act, this act takes effect July 1, 2009.

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