

# PROGRAM BILL #267

S.

Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
-----

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

\*APPR\*  
\*TAXLA\*

(Relates to real estate transfer tax  
deposits into the environmental  
protection fund; penalties; e waste  
and makes appropriations for the  
support of government; repealer)

-----  
Tax. EPF rl es trnsf tx depos

AN ACT

to amend the tax law, in relation to  
real estate transfer tax deposits  
into the environmental protection  
fund; to amend the environmental  
conservation law, in relation to the  
recycling, reuse and safe handling  
of electronic equipment sold in the  
state of New York; in relation to  
hazardous waste program fees and  
surcharges; and in relation to

## IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal

s20 Adams	s03 Foley	s24 Lanza	s37 Oppenheimer	s09 Skelos
s15 Addabbo	s08 Fuschillo	s39 Larkin	s11 Padavan	s14 Smith
s55 Alesi	s22 Golden	s01 LaValle	s21 Parker	s25 Squadron
s48 Aubertine	s47 Griffo	s40 Leibell	s13 Peralta	s58 Stachowski
s42 Bonacic	s06 Hannon	s52 Libous	s30 Perkins	s16 Stavisky
s46 Breslin	s36 Hassell-	s45 Little	s61 Ranzenhofer	s35 Stewart-
s50 DeFrancisco	Thompson	s05 Marcellino	s56 Robach	Cousins
s32 Diaz	s10 Huntley	s62 Maziarz	s41 Saland	s60 Thompson
s17 Dilan	s07 Johnson, C.	s43 McDonald	s19 Sampson	s49 Valesky
s29 Duane	s04 Johnson, O.	s18 Montgomery	s23 Savino	s59 Volker
s33 Espada	s34 Klein	s38 Morahan	s31 Schneiderman	s53 Winner
s44 Farley	s26 Krueger	s54 Nozzolio	s28 Serrano	s57 Young
s02 Flanagan	s27 Kruger	s12 Onorato	s51 Seward	

## IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

a049 Abbate	a010 Conte	a083 Heastie	a022 Meng	a067 Rosenthal
a001 Alessi	a032 Cook	a028 Hevesi	a102 Miller, J.	a118 Russell
a021 Alfano	a142 Corwin	a048 Hikin	a038 Miller, M.	a012 Saladino
a105 Amedore	a085 Crespo	a018 Hooper	a052 Millman	a113 Sayward
a084 Arroyo	a107 Crouch	a144 Hoyt	a103 Molinaro	a029 Scarborough
a035 Aubry	a063 Cusick	a060 Hyer-Spencer	a015 Montesano	a016 Schimel
a136 Bacalles	a045 Cymbrowitz	a042 Jacobs	a132 Morelle	a140 Schimminger
a099 Ball	a138 DelMonte	a095 Jaffee	a003 Murray	a145 Schroeder
a124 Barclay	a034 DenDekker	a057 Jeffries	a037 Nolan	a122 Scozzafava
a014 Barra	a116 Destito	a131 John	a128 Oaks	a064 Silver
a040 Barron	a081 Dinowitz	a112 Jordan	a069 O'Donnell	a100 Skartados
a082 Benedetto	a114 Duprey	a074 Kavanagh	a137 O'Mara	a093 Spano
a079 Benjamin	a004 Englebright	a065 Kellner	a051 Ortiz	a121 Stirpe
a073 Bing	a130 Errigo	a129 Kolb	a150 Parment	a011 Sweeney
a055 Boyland	a072 Espaillet	a135 Koon	a088 Paulin	a110 Tediaco
a008 Boyle	a071 Farrell	a025 Lancman	a141 Peoples-	a002 Thiele
a044 Brennan	a005 Fields	a091 Latimer	Stokes	a061 Titone
a092 Brodsky	a123 Finch	a013 Lavine	a058 Perry	a031 Titus
a046 Brook-Krasny	a007 Fitzpatrick	a050 Lentol	a023 Pheffer	a062 Tobacco
a147 Burling	a143 Gabryszak	a125 Lifton	a068 Powell	a054 Towns
a117 Butler	a090 Galef	a127 Lopez, P.	a087 Pretlow	a115 Townsend
a101 Cahill	a133 Gantt	a053 Lopez, V.	a146 Quinn	a041 Weinstein
a096 Calhoun	a036 Gianaris	a126 Lupardo	a097 Rabbitt	a020 Weisenberg
a043 Camara	a077 Gibson	a111 Magee	a009 Raia	a024 Weprin, D.
a106 Canestrari	a149 Giglio	a120 Magnarelli	a006 Ramos	a070 Wright
a026 Carrozza	a066 Glick	a059 Maisel	a134 Reilich	a094 Zebrowski
a089 Castelli	a108 Gordon	a030 Markey	a109 Reilly	a039
a086 Castro	a075 Gottfried	a027 Mayersohn	a078 Rivera, J.	
a119 Christensen	a098 Gunther	a019 McDonough	a080 Rivera, N.	
a033 Clark	a139 Hawley	a104 McEneny	a076 Rivera, P.	
a047 Colton	a148 Hayes	a017 McKeivitt	a056 Robinson	

1) Single House Bill (introduced and printed separately in either or both  
houses). Uni-Bill (introduced simultaneously in both houses and printed as one  
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed  
copies of bill and 4 copies of memorandum in support (single house); or 4 signed  
copies of bill and 8 copies of memorandum in support (uni-bill).

penalties for enforcement of violations; to repeal section 72-0403 of the environmental conservation law relating to hazardous waste program surcharges; and making appropriations for the support of government

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. (a) The several amounts specified in this act for state  
2 operations and for aid to localities, or so much thereof as shall be  
3 sufficient to accomplish the purposes designated by the appropriations,  
4 are hereby appropriated and authorized to be paid as hereinafter  
5 provided, to the respective public officers and for the several purposes  
6 specified.

7 (b) The several amounts specified in this act for capital projects, or  
8 so much thereof as shall be necessary to accomplish the purpose of the  
9 appropriations, are appropriated by comprehensive construction programs  
10 (hereinafter referred to by the abbreviation CCP), purposes, and  
11 projects designated by the appropriations, and authorized to be made  
12 available as hereinafter provided to the respective public officers;  
13 such appropriations shall be deemed to provide all costs necessary and  
14 pertinent to accomplish the intent of the appropriations and are appro-  
15 priated in accordance with the provisions of section 93 of the state  
16 finance law.

17 (c) No moneys appropriated by this act shall be available for payment  
18 until a certificate of approval has been issued by the director of the  
19 budget, who shall file such certificate with the department of audit and  
20 control, the chairperson of the senate finance committee and the chair-  
21 person of the assembly ways and means committee.

22 (d) The appropriations contained in this act shall be available for  
23 the fiscal year beginning on April 1, 2010.

24 OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

25 General Fund/State Operations

26 State Purposes Account - 003

1 PARK OPERATIONS PROGRAM ..... 11,000,000

2 -----

3 NONPERSONAL SERVICE

4 Supplies and materials ..... 4,000,000

5 Contractual services ..... 7,000,000

6 -----

7 Amount available for nonpersonal service .. 11,000,000

8 -----

9 DEPARTMENT OF ENVIRONMENTAL CONSERVATION

10 General Fund/State Operations

11 State Purposes Account - 003

12 FOREST AND LAND RESOURCES PROGRAM ..... 200,000

13 -----

14 NONPERSONAL SERVICE

15 Supplies and materials ..... 200,000

16 -----

17 Amount available for nonpersonal service ..... 200,000

18 -----

19 MISCELLANEOUS - ALL STATE DEPARTMENTS AND AGENCIES

20 GENERAL STATE CHARGES

1 General Fund/State Operations

2 State Purposes Account - 003

3 GENERAL STATE CHARGES ..... 5,000,000

4 -----

5 Notwithstanding any law to the contrary, for

6 taxes on public lands and payments pursu-

7 ant to sections 532 through 546 of the

8 real property tax law (09TX10ER) ..... 5,000,000

9 -----

10 CAPITAL PROJECTS

11 ENVIRONMENT AND RECREATION (CCP) ..... 134,000,000

12 -----

13 Environmental Protection Fund

14 Environment and Recreation Purpose

15 For services and expenses of projects and

16 purposes authorized by section 92-s of

17 the state finance law to receive funding

18 from the solid waste account in accord-

19 ance with a programmatic and financial

20 plan to be approved by the director of

21 the budget, including suballocation to

1 other state departments and agencies,  
2 according to the following:

3 Non-hazardous landfill closure projects  
4 (09LC10ER) ..... 600,000

5 Municipal waste reduction or recycling  
6 projects (09MR10ER) ..... 6,639,000

7 Secondary materials regional marketing  
8 assistance and energy conservation  
9 services projects (09SM10ER) ..... 1,000,000

10 Pesticides program (09PD10ER) ..... 575,000

11 Notwithstanding any law to the contrary,  
12 for assessment and recovery of any  
13 natural resource damages (09RD10ER) ..... 200,000

14 Notwithstanding any law to the contrary,  
15 for the pollution prevention institute;  
16 including \$600,000 for the Green Initi-  
17 ative Institute (09PP10ER) ..... 2,000,000

18 For services and expenses of projects and  
19 purposes authorized by section 92-s of  
20 the state finance law to receive funding  
21 from the parks, recreation and historic

1 preservation account in accordance with  
 2 a programmatic and financial plan to be  
 3 approved by the director of the budget,  
 4 including suballocation to other state  
 5 departments and agencies, according to  
 6 the following:

7 Local waterfront revitalization programs,  
 8 notwithstanding any law to the contrary,  
 9 not less than, \$6,000,000 for waterfront  
 10 revitalization projects which are in or  
 11 primarily serve areas where demographic  
 12 and other relevant data for such areas  
 13 demonstrate that the areas are densely  
 14 populated and have sustained physical  
 15 deterioration, decay, neglect, or disin-  
 16 vestment, or where a substantial propor-  
 17 tion of the residential population is of  
 18 low income or is otherwise disadvantaged  
 19 and is underserved with respect to the  
 20 existing recreational opportunities in  
 21 the area; and provided further this  
 22 appropriation shall not be construed to  
 23 restrict the use of any additional  
 24 monies for such projects; \$550,000 for  
 25 Buffalo Waterfront; \$300,000 for Niagara  
 26 River Greenway; and \$250,000 for Hudson  
 27 and Champlain Docks (09WR10ER) ..... 12,000,000

1 Parks, recreation and historic preserva-  
 2 tion projects, notwithstanding any law  
 3 to the contrary, not less than,  
 4 \$6,716,000 for municipal parks projects  
 5 which are in or primarily serve areas  
 6 where demographic and other relevant  
 7 data for such areas demonstrate that the  
 8 areas are densely populated and have  
 9 sustained physical deterioration, decay,  
 10 neglect or disinvestment or where a  
 11 substantial proportion of the residen-  
 12 tial population is of low income or is  
 13 otherwise disadvantaged and is under-  
 14 served with respect to the existing  
 15 recreational opportunities in the area,  
 16 and notwithstanding any law to the  
 17 contrary, \$225,000 for Olmstead Park,  
 18 \$125,000 for Hyde Park, \$225,000 for  
 19 Darwin Martin House and \$125,000 for  
 20 Graycliff Manor (09MP10ER) ..... 13,432,000

21 Notwithstanding any law to the contrary,  
 22 for state parks and land and easement  
 23 infrastructure, access and stewardship  
 24 projects which shall include capital  
 25 projects: (i) on state parks and state  
 26 owned lands acquired pursuant to  
 27 sections 54-0303 and 56-0307 of the



1 environmental conservation law and (ii)  
2 on state parks or state owned lands and  
3 easements under the jurisdiction of the  
4 department of environmental conservation  
5 or the office of parks, recreation and  
6 historic preservation for access oppor-  
7 tunities for people with disabilities;  
8 access to the State Forest Preserve;  
9 State reforestation, Wildlife Management  
10 areas and conservation easement lands;  
11 recreational trail construction and  
12 maintenance; Catskill and Adirondack  
13 campground improvements to public access  
14 and sanitation facilities; environmental  
15 education; conservation education facil-  
16 ity improvements; archeological, histor-  
17 ic, cultural and natural resource  
18 surveys, forest health surveys, inter-  
19 pretation, and inventories; Forest  
20 Preserve and state forest unit manage-  
21 ment planning; conservation easement  
22 public recreation planning; habitat  
23 restoration and enhancement; state fish  
24 hatchery improvements; water access  
25 facilities and safety improvements;  
26 public beach facility development and  
27 improvement; public access improvements

1 at day use areas; state historic site  
2 exterior restoration; and cabin area and  
3 camping facility development, restora-  
4 tion and reconstruction (09ST10ER) ..... 16,228,000

5 Notwithstanding subdivision 7 of section  
6 92-s of the state finance law or any  
7 other law to the contrary, for services  
8 and expenses of the Hudson River Park  
9 Trust for projects related to the devel-  
10 opment of the Hudson River Park consist-  
11 ent with provisions of chapter 592 of  
12 the laws of 1998; provided, however,  
13 such funds shall not be available for  
14 suballocation to any public benefit  
15 corporation or public authority with the  
16 exception of the Hudson River Park Trust  
17 and shall be available solely for the  
18 liabilities incurred by the Hudson River  
19 Park Trust or by other state departments  
20 or agencies on behalf of the Hudson  
21 River Park Trust and shall be available  
22 solely for the liabilities incurred by  
23 the Hudson River Park Trust or by other  
24 state departments or agencies on behalf  
25 of the Hudson River Park Trust on or  
26 after April 1, 1999. Provided further  
27 that, the comptroller is hereby author-

1        ized and directed to release monies to  
 2        the Hudson River Park Trust in amounts  
 3        set forth in a schedule approved by the  
 4        director of the budget (09HR10ER) ..... 3,000,000

5        Notwithstanding any law to the contrary,  
 6        for zoos, botanical gardens and aquaria  
 7        program (09ZB10ER) ..... 9,000,000

8        For services and expenses of projects and  
 9        purposes authorized by section 92-s of  
 10       the state finance law to receive funding  
 11       from the open space account in accord-  
 12       ance with a programmatic and financial  
 13       plan to be approved by the director of  
 14       the budget, including suballocation to  
 15       other state departments and agencies,  
 16       according to the following:

17       Costs related to the acquisition of the  
 18       following properties: Atlantic Coast, Long  
 19       Island Sound Coastal Area, Long Island  
 20       South Shore Estuary Reserve, Peconic Pine-  
 21       lands Maritime Reserve Projects, Central  
 22       Pine Barrens, Adirondack Mountain Club  
 23       Lands, Hudson River projects, Western  
 24       Suffolk/Nassau Special Groundwater

1 Protection Areas, Harbor Herons Wildlife  
2 Complex, Inner City/Underserved Community  
3 Parks, Long Pond/Butler Woods, Staten  
4 Island Greenbelt, Staten Island Wet Woods,  
5 Harlem River Waterfront, Great Swamp,  
6 Neversink Highlands, Plutarch/Black Creek  
7 Wetlands Complex, New York Highlands,  
8 Mongaup Valley Wildlife Management Area,  
9 Northern Putnam Greenway, Putnam Railroad,  
10 Schunemunk Mountain/Moodna Creek/Woodcock  
11 Mountain, Sterling Forest, Shawangunk  
12 Mountains, Northeastern Westchester  
13 Watershed and Biodiversity Lands, Rockland  
14 Riverfront Communities/Palisades Ridge,  
15 Catskill Mountain/Delaware River Region,  
16 Beaverkill/Willowemoc, Hudson River  
17 Estuary/Greenway Trail Corridor, Catskill  
18 Unfragmented Forest, Long Path, New York  
19 City Watershed Lands, Taconic Ridge/  
20 Harlem Valley, Albany Pine Bush, Five  
21 Rivers Environmental Education Center,  
22 Helderberg Escarpment, Pine Bush-Hudson  
23 River Link/Tivoli Preserve, Batten Kill  
24 Watershed-Saratoga National Historic Park  
25 View shed, Washington County Agricultural  
26 Lands-Saratoga National Historic Park View  
27 shed, Westmere Woods, Lake George  
28 watershed, Lake Champlain watershed,

1 Boeselager forestry, Domtar/Lyme Fee  
2 Lands, Catskill River and Road corridor,  
3 Rensselaer plateau, Hudson River Gorge,  
4 Franklinton Vlaie Wildlife Management  
5 area, Black Creek Marsh/Vly Swamp, Mohawk  
6 River Valley Corridor/Barge Canal, Ooms-  
7 dale farm and surrounding landscape,  
8 Susquehanna River Valley Corridor, Pilot  
9 Knob, Floodwood Camp, Lake Champlain  
10 Shoreline and Wetlands, Saratoga County,  
11 Mays Pond Tract, State Forest and Wildlife  
12 Management Area Protection, Follensby  
13 Park, Undeveloped Lake George Shore, Whit-  
14 ney Park, Finch Woodlands, Washington  
15 County Grasslands, Northern Flow River  
16 Corridors, Recreational Trail Linkages and  
17 Networks, Bog River/Beaver River Headwater  
18 Complex, Maumee Swamp, Moose River Corri-  
19 dor, Rome Sand Plains, Saint Lawrence  
20 River Islands, Shorelines and Wetlands,  
21 Eastern Lake Ontario Shoreline and  
22 Islands, Tug Hill Core Forests and Headwa-  
23 ter Streams, Tioga County Park Opportu-  
24 nities, Nelson Swamp, Genny-Green  
25 Trail/Link Trail, Clark Reservation State  
26 Park, Salmon River Corridor, State Parks  
27 Greenbelt/Tompkins County, Cattaraugus  
28 Creek and tributaries, Carpenter

1 Falls/Bear Swamp Creek Corridor, Tonawanda  
2 Creek Watershed, Two Rivers State Park,  
3 Finger Lakes Shoreline, Buffalo/Niagara  
4 River Corridors, Northern Montezuma  
5 Wetlands, HiTor/Bristol Hills, Braddock  
6 Bay, Catharine Valley Complex, Sonnenberg  
7 Gardens, Western Finger Lakes: Conesus,  
8 Hemlock, Canadice and Honeoye, Genesee  
9 Greenway/Recreationway, Allegany State  
10 Park, Alder Bottom Pond/French Creek,  
11 Great Lakes Shorelines and Niagara River,  
12 Chautauqua Lake Access, Shore Lands and  
13 Vistas, Randolph Swamp, Eighteen Mile  
14 Creek/Hampton Brook Woods, Statewide Small  
15 Projects, Working Forest Lands, State Park  
16 and State Historic Site Protection, (a)  
17 notwithstanding any law to the contrary,  
18 \$500,000 from the land acquisition allo-  
19 cation for urban forestry projects  
20 provided that no less than \$250,000 shall  
21 be made available for such programs in  
22 cities with populations of 65,000 or more;  
23 (b) notwithstanding any law to the contra-  
24 ry, \$1,575,000 from the land acquisition  
25 allocation to the land trust alliance for  
26 the purpose of awarding grants on a  
27 competitive basis to local land trusts,

1 provided that up to ten percent of such  
2 amount may be made available for adminis-  
3 trative costs and/or technical assistance  
4 (09LA10ER) ..... 17,614,000

5 Albany Pine Bush Preserve Commission  
6 (09AP10ER) ..... 2,000,000

7 Long Island Central Pine Barrens Planning  
8 (09LP10ER) ..... 1,100,000

9 Long Island South Shore Estuary Reserve  
10 (09SE10ER) ..... 900,000

11 Agricultural non-point source abatement  
12 and control projects (09AN10ER) ..... 13,297,000

13 Non-agricultural non-point source abate-  
14 ment and control projects (09NP10ER) ..... 3,703,000

15 Agriculture and farmland protection activ-  
16 ities (09FP10ER) ..... 10,750,000

17 Biodiversity stewardship and research, and  
18 notwithstanding any law to the contrary,  
19 \$75,000 for Cayuga Island (09BD10ER) ..... 500,000

1 Notwithstanding any law to the contrary,  
 2 for the Hudson River Estuary Management  
 3 Plan prepared pursuant to section  
 4 11-0306 of the environmental conserva-  
 5 tion law (09HE10ER) ..... 3,000,000

6 Notwithstanding any law to the contrary,  
 7 for state assistance payments, pursuant  
 8 to a smart growth program, provided on a  
 9 competitive basis, to counties, cities,  
 10 towns, or villages to establish, update  
 11 or implement comprehensive plans in a  
 12 manner consistent with smart growth;  
 13 provided, however, that up to 25 percent  
 14 of such payments may be awarded to not-  
 15 for-profit organizations for such  
 16 purposes (09SG10ER) ..... 300,000

17 Notwithstanding any law to the contrary,  
 18 for the Finger Lakes-Lake Ontario  
 19 Watershed Protection Alliance (09FL10ER)  
 20 ..... 1,000,000

21 Notwithstanding any law to the contrary,  
 22 for the state share of costs of wastewa-  
 23 ter treatment improvement projects  
 24 undertaken by municipalities to upgrade  
 25 municipal systems to meet stormwater,



1 combined sewer overflow, sanitary sewer  
 2 overflow and wastewater treatment  
 3 discharge requirements with priority  
 4 given to systems that are in violation  
 5 of title 8 of article 17 of the environ-  
 6 mental conservation law and aquatic  
 7 habitat restoration projects undertaken  
 8 by municipalities and not-for-profit  
 9 corporations for aquatic habitat resto-  
 10 ration projects as defined in subdivi-  
 11 sion 1 of section 56-0101 of the envi-  
 12 ronmental conservation law (09WQ10ER) ..... 2,932,000

13 Notwithstanding any law to the contrary  
 14 for New York ocean and Great Lakes  
 15 ecosystem conservation projects,  
 16 consistent with the policy articulated  
 17 in article 14 of the environmental  
 18 conservation law (09GL10ER) ..... 5,000,000

19 Notwithstanding any law to the contrary,  
 20 for the implementation of the recommen-  
 21 dations of the invasive species task  
 22 force prepared pursuant to chapter 324  
 23 of the laws of 2003 and for the purposes  
 24 set forth in chapter 674 of the laws of  
 25 2007 including not less than \$95,000 for  
 26 Lake George, provided that not less than

1       \$1,000,000 be made available for inva-  
2       sive species eradication, and including  
3       grants related to the control and  
4       management of invasive species. Such  
5       funding for grants shall be provided on  
6       a competitive basis in consultation with  
7       the New York Invasive Species Council  
8       (09IS10ER) ..... 3,800,000

9       Notwithstanding any law to the contrary,  
10       for Soil and Water Conservation District  
11       activities as authorized for reimburse-  
12       ment in section 11-a of the soil and  
13       water conservation districts law  
14       (09SW10ER) ..... 3,000,000

15       Notwithstanding any law to the contrary,  
16       for Agricultural Waste Management  
17       projects (09AW10ER) ..... 430,000

18       § 2. Section 1421 of the tax law, as amended by section 1 of part T  
19 of chapter 59 of the laws of 2009, is amended to read as follows:

20       § 1421. Deposit and dispositions of revenues. From the taxes, interest  
21 and penalties attributable to the tax imposed pursuant to section four-  
22 teen hundred two of this article, the amount of [thirty-three and one-  
23 half million] one hundred ninety-nine million three hundred thousand  
24 dollars shall be deposited by the comptroller in the environmental  
25 protection fund established pursuant to section ninety-two-s of the  
26 state finance law for the fiscal year beginning April first, [nineteen

1 hundred ninety-five] two thousand nine; the amount of [eighty-seven  
2 million dollars shall be deposited in such fund for the fiscal years  
3 beginning April first, nineteen hundred ninety-six and nineteen hundred  
4 ninety-seven; the amount of one hundred twelve million dollars shall be  
5 deposited in such fund for the fiscal years beginning April first, nine-  
6 teen hundred ninety-eight, nineteen hundred ninety-nine, two thousand,  
7 two thousand one, two thousand two, two thousand three, two thousand  
8 four and two thousand five; the amount of one hundred thirty-seven  
9 million dollars shall be deposited in such fund for the fiscal year  
10 beginning April first, two thousand six; the amount of two hundred  
11 twelve million dollars shall be deposited in such fund for the fiscal  
12 year beginning April first, two thousand seven; the amount of two  
13 hundred thirty-seven million dollars shall be deposited in such fund for  
14 the fiscal year beginning April first, two thousand eight; the amount of  
15 one hundred ninety-nine million three hundred thousand dollars shall be  
16 deposited in such fund for four fiscal years beginning April first, two  
17 thousand nine;] one hundred nineteen million one hundred thousand  
18 dollars shall be deposited in such fund for the fiscal year beginning  
19 April first, two thousand ten; and for each fiscal year thereafter[;  
20 provided however that at the direction of the director of the budget, an  
21 additional amount of up to twenty-five million dollars may be deposited  
22 in such fund for the fiscal year beginning April first, two thousand  
23 seven and ending March thirty-first, two thousand eight, for disposition  
24 as provided under such section]. On or before June twelfth, nineteen  
25 hundred ninety-five and on or before the twelfth day of each month ther-  
26 eafter (excepting the first and second months of each fiscal year), the  
27 comptroller shall deposit into such fund from the taxes, interest and  
28 penalties collected pursuant to such section fourteen hundred two of

1 this article which have been deposited and remain to the comptroller's  
2 credit in the banks, banking houses or trust companies referred to in  
3 section one hundred seventy-one-a of this chapter at the close of busi-  
4 ness on the last day of the preceding month, an amount equal to one-  
5 tenth of the annual amount required to be deposited in such fund pursu-  
6 ant to this section for the fiscal year in which such deposit is  
7 required to be made. In the event such amount of taxes, interest and  
8 penalties so remaining to the comptroller's credit is less than the  
9 amount required to be deposited in such fund by the comptroller, an  
10 amount equal to the shortfall shall be deposited in such fund by the  
11 comptroller with subsequent deposits, as soon as the revenue is avail-  
12 able. Beginning April first, nineteen hundred ninety-seven, the comp-  
13 troller shall transfer monthly to the clean water/clean air fund estab-  
14 lished pursuant to section ninety-seven-bbb of the state finance law,  
15 all moneys remaining from such taxes, interest and penalties collected  
16 that are not required for deposit in the environmental protection fund.

17 § 3. Short title. Sections three, four and five of this act shall be  
18 known and may be cited as the "electronic equipment recycling and reuse  
19 act".

20 § 4. Article 27 of the environmental conservation law is amended by  
21 adding a new title 26 to read as follows:

22 TITLE 26

23 ELECTRONIC EQUIPMENT RECYCLING AND REUSE

24 Section 27-2601. Definitions.

25 27-2603. Manufacturer collection; recycling surcharge.

26 27-2605. Manufacturer electronic waste registration and respon-  
27 sibilities.

28 27-2607. Retailer requirements.

- 1        27-2609. Labeling.
- 2        27-2611. Disposal ban.
- 3        27-2613. Electronic waste collection, consolidation and recycl-
- 4                ing.
- 5        27-2615. Department responsibilities.
- 6        27-2617. Reporting requirements.
- 7        27-2619. Preemption.
- 8        27-2621. Disposition of fees.

9    § 27-2601. Definitions.

10    As used in this title:

11    1. "Cathode ray tube" means a vacuum tube or picture tube used to

12    convert an electronic signal into a visual image.

13    2. "Computer" means an electronic, magnetic, optical, electrochemical

14    or other high-speed data processing device performing a logical, arith-

15    metic or storage function, including a laptop computer and desktop

16    computer, and includes any cable, cord, or wiring permanently affixed to

17    or incorporated into such product, and may include both a computer

18    central processing unit and a monitor; but such term shall not include

19    an automated typewriter or typesetter, a portable hand-held calculator,

20    a portable digital assistant, server, or other similar device.

21    3. "Computer peripheral" means a monitor; electronic keyboard; elec-

22    tronic mouse or similar pointing device; facsimile machine, document

23    scanner, or printer intended for use with a computer; and includes any

24    cable, cord, or wiring permanently affixed to or incorporated into any

25    such product. Computer peripheral shall not include any document scan-

26    ner or printer which weighs one hundred pounds or more.

27    4. "Consumer" means a person located in the state who owns or uses

28    covered electronic equipment, including but not limited to an individ-

1 ual, a business, corporation, limited partnership, not-for-profit corpo-  
2 ration, the state, a public corporation, public school, school district,  
3 private or parochial school or board of cooperative educational services  
4 or governmental entity, but does not include an entity involved in a  
5 wholesale transaction between a distributor and retailer.

6 5. "Covered electronic equipment" means: a computer; computer periph-  
7 eral; small electronic equipment; small-scale server; cathode ray tube;  
8 or television, as defined in this section. "Covered electronic equip-  
9 ment" does not include any motor vehicle or any part thereof; camera or  
10 video camera; portable or stationary radio; household appliances such as  
11 clothes washers, clothes dryers, refrigerators, freezers, microwave  
12 ovens, ovens, ranges or dishwashers; equipment that is functionally or  
13 physically part of a larger piece of equipment intended for use in an  
14 industrial, research and development or commercial setting; security or  
15 anti-terrorism equipment; monitoring and control instrument or system;  
16 thermostat; hand-held transceiver; telephone of any type; portable  
17 digital assistant or similar device; calculator; global positioning  
18 system (GPS) receiver or similar navigation device; a server other than  
19 a small-scale server; a cash register or retail self checkout system; a  
20 stand-alone storage product intended for use in industrial, research and  
21 development or commercial settings; commercial medical equipment that  
22 contains within it a cathode ray tube, a flat panel display or similar  
23 video display device, and is not separate from the larger piece of  
24 equipment; or other medical devices as that term is defined under the  
25 Federal Food, Drug and Cosmetic Act.

26 6. "Electronic waste" means covered electronic equipment that has  
27 been discarded or is no longer wanted by its owner, or for any other  
28 reason enters the waste collection, recovery, treatment, processing, or

1 recycling system. For purposes of section 27-2611 of this title, "elec-  
2 tronic waste" does not include the case, shell, or other enclosure of  
3 covered electronic equipment from which incorporated assemblies, sub-as-  
4 semblies, components, materials, wiring, circuitry and commodities have  
5 been removed.

6 7. "Electronic waste collection site" means a facility at a fixed or  
7 temporary site at which electronic waste is accepted from consumers and  
8 temporarily stored for more than five days in a calendar year before  
9 such waste is transported to an electronic waste consolidation facility  
10 or electronic waste recycling facility. Electronic waste collection  
11 sites include, but are not limited to, dedicated sites and facilities  
12 for the acceptance of electronic waste, and retail stores and outlets,  
13 municipal or private electronic waste collection sites and not-for-pro-  
14 fit donation sites that have agreed to accept electronic waste.

15 8. "Electronic waste consolidation facility" means a facility that  
16 receives and stores electronic waste for the purpose of organizing,  
17 categorizing or consolidating items of electronic waste before such  
18 waste is transported to an electronic waste recycling facility. Elec-  
19 tronic waste consolidation facilities include, but are not limited to,  
20 facilities of brokers acting as intermediaries between electronic waste  
21 buyers and sellers, and regional centers at which electronic waste is  
22 organized, categorized or consolidated after being transported to such  
23 centers from electronic waste collection sites or other electronic waste  
24 consolidation facilities.

25 9. "Electronic waste recycling facility" means a facility at which  
26 electronic waste is recycled.

27 10. "Label" means a marker on the surface of covered electronic equip-  
28 ment conveying information; for the purposes of this title, labels must

1 be permanent and can be attached, printed, engraved or incorporated in  
2 any other permanent way that is obvious and visible to users of the  
3 product.

4 11. "Manufacturer" means a person who: (a) assembles or substantially  
5 assembles covered electronic equipment for sale in the state; (b) manu-  
6 factures covered electronic equipment under its own brand name or under  
7 any other brand name for sale in the state; (c) sells, under its own  
8 brand name, covered electronic equipment sold in the state; (d) owns a  
9 brand name that it licenses to another person for use on covered elec-  
10 tronic equipment sold in the state; (e) imports covered electronic  
11 equipment for sale in the state; or (f) manufactures covered electronic  
12 equipment for sale in the state without affixing a brand name. "Manufac-  
13 turer" does not mean a person who assembles or substantially assembles,  
14 and sells less than one thousand units of covered electronic equipment  
15 annually in this state, or whose primary business is the sale of covered  
16 electronic equipment which is comprised primarily of rebuilt, refur-  
17 bished or used components. If more than one person is a manufacturer of  
18 a brand of covered electronic equipment, any such person may assume  
19 responsibility for obligations of a manufacturer of that brand under  
20 this title. If none of those persons assumes responsibility for the  
21 obligations of a manufacturer under this title, any and all such persons  
22 jointly and severally may be considered to be the responsible manufac-  
23 turer of that brand for purposes of this title.

24 12. "Manufacturer's brands" means a manufacturer's name, brand name or  
25 brand label, and all manufacturer's names, brand names and brand labels  
26 for which the manufacturer has a legal right or interest, including  
27 those names, brand names, and brand labels of companies that have been



1 acquired by the manufacturer or in which the manufacturer asserts a  
2 legal interest such as trademark, license, service mark, or patent.

3 13. "Monitor" means a separate visual display component of a computer,  
4 whether sold separately or together with a computer central processing  
5 unit, and includes a cathode ray tube, liquid crystal display, gas plas-  
6 ma, digital light processing or other image projection technology,  
7 greater than four inches when measured diagonally, and its case, interi-  
8 or wires and circuitry, and any cable cord or wiring permanently affixed  
9 thereto or incorporated into such product.

10 14. "Person" means any individual, business entity, partnership,  
11 company, corporation, not-for-profit corporation, association, govern-  
12 mental entity, public benefit corporation, public authority, firm,  
13 organization, or any other group of individuals, or any officer or  
14 employee or agent thereof.

15 15. "Recycle" means to separate, dismantle or process the materials,  
16 components or commodities contained in electronic waste for the purpose  
17 of preparing the materials, components or commodities for use or reuse  
18 in new products or components thereof, but not for energy recovery or  
19 energy generation by means of combustion, gasification, pyrolysis or  
20 other means. Recycling includes the manual and mechanical separation of  
21 electronic waste to recover materials, components or commodities  
22 contained therein for the purpose of reuse or recycling, and changing  
23 the physical or chemical composition of electronic waste to segregate  
24 components for purposes of recycling those components.

25 16. "Retailer" means a person who sells covered electronic equipment  
26 to a person in the state through any means, including, but not limited  
27 to, transactions conducted through retail sales outlets, mail, catalogs,  
28 the telephone or the internet, or any electronic means. "Retailer" does

1 not include a person who sells or offers for sale fewer than ten items  
2 of covered electronic equipment during a calendar year.

3 17. "Reuse" means the use of electronic waste that is tested and  
4 certified to be in good working order and which was removed from the  
5 waste stream for use for the same purpose for which it was manufactured,  
6 including the continued use of whole systems or components.

7 18. "Sell" or "sale" means any transfer for consideration of title or  
8 the right to use, from a manufacturer or retailer to a person, includ-  
9 ing, but not limited to, transactions conducted through retail sales  
10 outlets, catalogs, mail, the telephone, the internet, or any electronic  
11 means; this includes transfer of new products or used products that may  
12 have been refurbished by their manufacturer or manufacturer-approved  
13 party and that are offered for sale by a manufacturer or retailer, but  
14 does not include consumer-to-consumer second-hand transfer. "Sell or  
15 sale" does not include: (a) the transfer of used covered electronic  
16 equipment or a lease of covered electronic equipment; or (b) wholesale  
17 transactions among a manufacturer, wholesaler and retailer.

18 19. "Small electronic equipment" means any portable digital music  
19 player that has memory capability and is battery-powered, video cassette  
20 recorder, a digital video disc player, digital video recorder, digital  
21 converter box, cable or satellite receiver, or electronic or video game  
22 console, and includes any cable, cord, or wiring permanently affixed to  
23 or incorporated into any such product.

24 20. "Small-scale server" means a computer that typically uses desktop  
25 components in a desktop form factor, but is designed primarily to be a  
26 storage host for other computers. To be considered a small-scale server,  
27 a computer must have the following characteristics: designed in a pedes-  
28 tal, tower, or other form factor similar to those of desktop computers

1 such that all data processing, storage, and network interfacing is  
2 contained within one box or product; intended to be operational twenty-  
3 four hours per day and seven days a week, and unscheduled downtime is  
4 extremely low, such as on the order of hours per year; is capable of  
5 operating in a simultaneous multi-user environment serving several users  
6 through networked client units; and designed for an industry accepted  
7 operating system for home or low-end server applications.

8 21. "Television" means a display system containing a cathode ray tube  
9 or any other type of display primarily intended to receive video  
10 programming via broadcast, cable or satellite transmission, having a  
11 viewable area greater than four inches when measured diagonally.

12 § 27-2603. Manufacturer collection; recycling surcharge.

13 1. (a) Beginning April first, two thousand eleven, a manufacturer of  
14 covered electronic equipment must accept for collection, handling and  
15 recycling or reuse electronic waste for which it is the manufacturer.  
16 Such waste shall count toward the amount of electronic waste required to  
17 be accepted pursuant to subdivision four of this section.

18 (b) Beginning April first, two thousand eleven, a manufacturer of  
19 covered electronic equipment must accept for collection, handling and  
20 recycling or reuse one piece of electronic waste of any manufacturer's  
21 brand if offered by a consumer with the purchase of covered electronic  
22 equipment of the same type by a consumer. Such waste shall count toward  
23 the amount of the electronic waste required to be accepted pursuant to  
24 subdivision four of this section.

25 2. Beginning April first, two thousand eleven, each manufacturer must  
26 accept for collection, handling and recycling or reuse the manufactur-  
27 er's acceptance standard as specified in subdivision four of this  
28 section.

1 3. Statewide recycling or reuse goal. (a) For the period from April  
2 first, two thousand eleven through December thirty-first, two thousand  
3 eleven, the statewide recycling or reuse goal for electronic waste shall  
4 be the product of the latest population estimate for the state, as  
5 published by the U.S. Census bureau multiplied by three pounds multi-  
6 plied by three-quarters.

7 (b) For calendar year two thousand twelve, the statewide recycling or  
8 reuse goal for all electronic waste shall be the product of the latest  
9 population estimate for the state, as published by the U.S. Census  
10 bureau multiplied by four pounds.

11 (c) For calendar year two thousand thirteen, the statewide recycling  
12 or reuse goal for all electronic waste shall be the product of the  
13 latest population estimate for the state, as published by the U.S.  
14 Census bureau multiplied by five pounds.

15 (d) For calendar year two thousand fourteen and annually thereafter,  
16 the statewide recycling or reuse goal for all electronic waste is the  
17 product of the base weight multiplied by the goal attainment percentage.  
18 For the purposes of this paragraph, "base weight" means the greater of:

19 (i) the average weight of all electronic waste collected for recycling  
20 or reuse during the previous three calendar years as reported to the  
21 department pursuant to paragraph (b) of subdivision one of section  
22 27-2617 of this title; or (ii) the three year average of the sum of all  
23 electronic waste collected for recycling or reuse during the previous  
24 three calendar years based on information reported to the department  
25 pursuant to paragraph (b) of subdivision one, paragraph (b) of subdivi-  
26 sion two and paragraph (b) of subdivision three of section 27-2613 of  
27 this title.

28 (e) The "goal attainment percentage" means:

1 (i) ninety percent if the base weight is less than ninety percent of  
2 the statewide recycling or reuse goal for the previous calendar year;  
3 (ii) ninety-five percent if the base weight is ninety percent or  
4 greater, but does not exceed ninety-five percent of the statewide recy-  
5 cling or reuse goal for the previous calendar year;  
6 (iii) one hundred percent if the base weight is ninety-five percent or  
7 greater, but does not exceed one hundred five percent of the statewide  
8 recycling or reuse goal for the previous calendar year;  
9 (iv) one hundred five percent if the base weight is one hundred five  
10 percent or greater, but does not exceed one hundred ten percent of the  
11 statewide recycling or reuse goal for the previous calendar year; and  
12 (v) one hundred ten percent if the base weight is one hundred ten  
13 percent or greater of the statewide recycling or reuse goal for the  
14 previous calendar year.

15 4. Manufacturer acceptance standard. (a) For the period April first,  
16 two thousand eleven through December thirty-first, two thousand eleven  
17 and annually thereafter, each manufacturer's acceptance standard is the  
18 product of the statewide recycling or reuse goal under paragraph (a),  
19 (b), (c) or (d) of subdivision three of this section, as appropriate,  
20 multiplied by that manufacturer's market share pursuant to paragraph (b)  
21 of this subdivision.

22 (b) Each manufacturer's market share of electronic waste shall be  
23 determined by the department based on the manufacturer's percentage  
24 share of the total weight of covered electronic equipment sold as deter-  
25 mined by the best available information, including, but not limited to,  
26 state sales data reported by weight. Beginning April first, two thou-  
27 sand eleven, and every calendar year thereafter, the department shall  
28 provide each manufacturer with a determination of its market share of

1 electronic waste which shall be the quotient of the total weight of the  
2 manufacturer's covered electronic equipment sold to persons in this  
3 state based on the average annual retail sales during the preceding  
4 three calendar years, as reported under sections 27-2605 and 27-2617 of  
5 this title divided by the total weight of all manufacturers covered  
6 electronic equipment sold to persons in this state based on the average  
7 annual retail sales during the preceding three calendar years, as  
8 reported under sections 27-2605 and 27-2617 of this title.

9 5. In the absence of a waiver by the department pursuant to subdivi-  
10 sion three of section 27-2615 of this title, beginning in calendar year  
11 two thousand thirteen, a manufacturer that fails to meet its manufactur-  
12 er's acceptance standard for the previous calendar year as required by  
13 subdivision four of this section shall be subject to a recycling  
14 surcharge, determined as follows:

15 (a) If a manufacturer accepts at least ninety percent but less than  
16 one hundred percent of its manufacturer's acceptance standard as  
17 required by subdivision four of this section, the surcharge shall be  
18 thirty cents multiplied by the number of additional pounds of electronic  
19 waste that should have been accepted by such manufacturer.

20 (b) If a manufacturer accepts at least fifty percent but less than  
21 ninety percent of its manufacturer's acceptance standard as required by  
22 subdivision four of this section, the surcharge shall be forty cents  
23 multiplied by the number of additional pounds of electronic waste that  
24 should have been accepted by such manufacturer.

25 (c) If a manufacturer accepts less than fifty percent of its manufac-  
26 turer's acceptance standard as required by subdivision four of this  
27 section, the surcharge shall be fifty cents multiplied by the number of

1 additional pounds of electronic waste that should have been accepted by  
2 such manufacturer.

3 6. The recycling surcharge shall be paid to the department with the  
4 annual report required pursuant to section 27-2617 of this title.

5 7. Beginning with calendar year two thousand fourteen, if a manufac-  
6 turer accepts more than its manufacturer's acceptance standard as  
7 required by subdivision four of this section, the excess weight may be  
8 used as electronic waste acceptance credits and may be sold, traded, or  
9 banked for a period no longer than three calendar years succeeding the  
10 year in which the credits were earned; provided, however, that no more  
11 than twenty-five percent of a manufacturer's obligation for any calendar  
12 year may be met with recycling credits generated in a prior calendar  
13 year.

14 § 27-2605. Manufacturer electronic waste registration and responsibil-  
15 ities.

16 1. A manufacturer shall submit a registration on a form prescribed by  
17 the department to the department by January first, two thousand eleven,  
18 along with a registration fee of five thousand dollars. The department  
19 may require such form to be filed electronically. Such registration  
20 shall include:

21 (a) the manufacturer's name, address, and telephone number;

22 (b) the name and title of an officer, director, or other individual  
23 designated as the manufacturer's contact for purposes of this title;

24 (c) a list identifying the manufacturer's brands;

25 (d) a general description of the manner in which the manufacturer will  
26 comply with section 27-2603 of this title, including specific informa-  
27 tion on the manufacturer's electronic waste acceptance program in the

1 state, and a current list of locations within the state where consumers  
2 may return electronic waste;

3 (e) sales data reported by weight for the manufacturer's covered elec-  
4 tronic equipment sold in this state for the previous three calendar  
5 years, categorized by type to the extent known. If the manufacturer  
6 cannot provide accurate state sales data, it must explain why such data  
7 cannot be provided, and estimate state sales data by (i) dividing its  
8 national sales data by weight by the national population according to  
9 the most recent census and multiplying the result by the population of  
10 the state, or (ii) another method approved by the department;

11 (f) a statement disclosing whether: (i) any covered electronic device  
12 sold in this state exceeds the maximum concentration values established  
13 for lead, mercury, cadmium, hexavalent chromium, polybrominated biphe-  
14 nyls (PBBs), and polybrominated diphenyl ethers (PBDEs) under the  
15 restriction of hazardous substances directive (RoHS) pursuant to  
16 2002/95/EC of the European Parliament and Council and any amendments  
17 thereto and if so, a listing of any covered electronic equipment that is  
18 not in compliance with such directive; or (ii) the manufacturer has  
19 received an exemption from one or more of those maximum concentration  
20 values under the RoHS directive that has been approved and published by  
21 the European Commission; and

22 (g) any other information as the department may require.

23 2. A manufacturer's registration is effective upon acceptance by the  
24 department and must be updated within thirty days of any material change  
25 to the information required by subdivision one of this section.

26 3. Any person who becomes a manufacturer on or after January first,  
27 two thousand eleven shall register with the department prior to selling



1 or offering for sale in the state any covered electronic equipment, and  
2 must comply with the requirements of this title.

3 4. No later than April first, two thousand eleven, a manufacturer  
4 shall not sell or offer for sale electronic equipment in the state  
5 unless the manufacturer has registered with the department and maintains  
6 an electronic waste acceptance program through which the manufacturer,  
7 either directly or through an agent or designee, accepts electronic  
8 waste from consumers in the state for recycling. The manufacturer shall  
9 ensure that retailers are notified of such registration.

10 5. The electronic waste acceptance program shall include, at a mini-  
11 mum:

12 (a) collection, handling and recycling or reuse of electronic waste  
13 pursuant to section 27-2603 of this title in a manner convenient to  
14 consumers. The following acceptance methods shall be considered reason-  
15 ably convenient: (i) mail or ship back return programs; (ii) collection  
16 or acceptance events conducted by the manufacturer or the manufacturer's  
17 agent or designee, including events conducted through local governments  
18 or private parties; (iii) fixed acceptance locations such as dedicated  
19 acceptance sites operated by the manufacturer or its agent or designee;  
20 (iv) agreements with local governments, retail stores, sales outlets and  
21 not-for-profit organizations which have agreed to provide facilities for  
22 the collection of electronic waste; (v) community collection events; and  
23 (vi) any combination of these or other acceptance methods which effec-  
24 tively provide for the acceptance of electronic waste for recycling or  
25 reuse through means that are available and reasonably convenient to  
26 consumers in the state. At a minimum, the manufacturer shall ensure that  
27 all counties of the state, and all municipalities which have a popu-  
28 lation of ten thousand or greater, have at least one method of accept-

1 ance that is available within such county or municipality. The depart-  
2 ment may establish additional requirements to ensure convenient  
3 collection from consumers;

4 (b) information on how consumers can destroy all data on any electron-  
5 ic waste, either through physical destruction of the hard drive or  
6 through data wiping;

7 (c) a public education program to inform consumers about the manufac-  
8 turer's electronic waste acceptance program, including at a minimum: (i)  
9 an internet website and a toll-free telephone number and written infor-  
10 mation included in the product manual for, or at the time of sale of,  
11 covered electronic equipment that provides sufficient information to  
12 allow a consumer of covered electronic equipment to learn how to return  
13 the covered equipment for recycling or reuse, and in the case of  
14 manufacturers of computers, hard drives and other covered electronic  
15 equipment that have internal memory on which personal or other confiden-  
16 tial data can be stored, such website shall provide instructions for how  
17 consumers can destroy such data before surrendering the products for  
18 recycling or reuse; (ii) advertisements and press releases if any; and

19 (d) any other information as required by the department in accordance  
20 with regulations promulgated pursuant to this article.

21 6. A manufacturer shall maintain records demonstrating compliance with  
22 this title and make them available for audit and inspection by the  
23 department for a period of three years.

24 7. A manufacturer may satisfy the electronic waste collection require-  
25 ments of this section by agreeing to participate in a collective elec-  
26 tronic waste acceptance program with other manufacturers. Any such  
27 collective electronic waste acceptance program must meet the same  
28 requirements as an individual manufacturer. Any collective electronic

1 waste acceptance program must include a list of manufacturers that are  
2 participating in such program along with other identifying information  
3 as may be required by the department. Such program shall submit a regis-  
4 tration to the department along with a registration fee of ten thousand  
5 dollars.

6 8. A manufacturer shall be responsible for all costs associated with  
7 the implementation of the electronic waste acceptance program. The  
8 manufacturer shall not charge consumers for the collection, handling and  
9 recycling and reuse of electronic waste, provided that such prohibition  
10 shall not apply to a charge on business consumers or to charges for  
11 premium services. This prohibition shall not apply to a manufacturer's  
12 contract with a consumer for the collection, handling, recycling or  
13 reuse of electronic waste that was entered into prior to the effective  
14 date of this section. For purposes of this subdivision, "business  
15 consumer" means a for-profit entity which has fifty or more full time  
16 employees or a not-for-profit corporation with seventy-five or more full  
17 time employees, but not a not-for-profit corporation designated under  
18 section 501(c)(3) of the internal revenue code. For purposes of this  
19 subdivision, "premium services" means equipment and data security  
20 services, refurbishment for reuse by the consumer, and other custom  
21 services as may be determined by the department.

22 § 27-2607. Retailer requirements.

23 1. At the location of sale of covered electronic equipment, a retailer  
24 shall provide purchasers of covered electronic equipment with informa-  
25 tion, if any, about opportunities for the return of electronic waste  
26 that has been provided to the retailer by a manufacturer.

27 2. Beginning April first, two thousand eleven, no retailer shall sell  
28 or offer for sale in the state any covered electronic equipment unless

1 the manufacturer and the manufacturer's brands are registered with the  
2 department pursuant to section 27-2605 of this title. If the retailer  
3 purchased covered electronic equipment from a manufacturer who fails to  
4 register by January first, two thousand eleven, or prior to the date the  
5 manufacturer withdrew its registration or the registration was revoked  
6 by the department, the retailer may continue to sell the covered elec-  
7 tronic equipment for one hundred eighty days after April first, two  
8 thousand eleven, or the date the registration was withdrawn or revoked.  
9 § 27-2609. Labeling.

10 Beginning April first, two thousand eleven, a manufacturer may not  
11 offer for sale in the state or deliver to retailers for subsequent sale  
12 covered electronic equipment unless it has a visible, permanent label  
13 clearly identifying the manufacturer of that equipment.

14 § 27-2611. Disposal ban.

15 1. Beginning April first, two thousand eleven, no manufacturer,  
16 retailer, or owner or operator of an electronic waste collection site,  
17 electronic waste consolidation facility or electronic waste recycling  
18 facility in the state shall dispose of electronic waste at a solid waste  
19 management facility or hazardous waste management facility, or place  
20 electronic waste for collection which is intended for disposal at a  
21 solid waste management facility or hazardous waste management facility.

22 2. Beginning January first, two thousand twelve, no person except for  
23 an individual or household shall place or dispose of any electronic  
24 waste in any solid waste management facility, or place electronic waste  
25 for collection which is intended for disposal at a solid waste manage-  
26 ment facility or hazardous waste management facility in this state.  
27 Persons engaged in the collection of solid waste for delivery to a solid  
28 waste management facility shall provide written information to users of

1 such facility on the proper methods for the recycling of electronic  
2 waste.

3 3. Beginning January first, two thousand fifteen, no individual or  
4 household shall place or dispose of any electronic waste in any solid  
5 waste management facility, or place electronic waste for collection  
6 which is intended for disposal at a solid waste management facility or  
7 hazardous waste management facility in this state.

8 4. Beginning January first, two thousand twelve, an owner or operator  
9 of a solid waste management facility or hazardous waste management  
10 facility shall educate users of such facility on the proper methods for  
11 the management of electronic waste. Such education shall include:

12 (a) providing written information to users of such facility on the  
13 proper methods for recycling of electronic waste; and

14 (b) posting, in conspicuous locations at such facility, signs stating  
15 that electronic waste may not be disposed of at the facility.

16 § 27-2613. Electronic waste collection, consolidation and recycling.

17 1. Electronic waste collection sites. No later than January first,  
18 two thousand eleven, each person who owns or operates an electronic  
19 waste collection site in the state shall:

20 (a) register with the department on a form prescribed by the depart-  
21 ment. The department may require such form to be filed electronically.

22 The registration shall include: (i) the name, address, and telephone  
23 number of the owners and the operators of the electronic waste  
24 collection site; and (ii) the name, address, and telephone number of the  
25 electronic waste collection site. Any person who commences the operation  
26 of an electronic waste collection site on or after January first, two  
27 thousand eleven shall register with the department at least thirty days  
28 prior to receiving any electronic waste at such collection site. A

1 registration is effective upon acceptance by the department. In the case  
2 of collection sites operated by a retailer, a single registration list-  
3 ing the name, address, and telephone number of the individual collection  
4 sites may be submitted covering all their collection sites;

5 (b) beginning March first, two thousand twelve, each person operating  
6 an electronic waste collection site shall submit to the department an  
7 annual report for the period of April first, two thousand eleven through  
8 December thirty-first, two thousand eleven and each calendar year there-  
9 after, on a form prescribed by the department. The department may  
10 require annual reports to be filed electronically. Annual reports shall  
11 include, but not be limited to, the following information: (i) the quan-  
12 tity, by weight, of electronic waste received from consumers in the  
13 state; (ii) the name and address of each person to whom the electronic  
14 waste collection site sent electronic waste during the reporting period,  
15 along with the quantity, by weight, of electronic waste that was sent to  
16 each such person; and (iii) the weight of electronic waste collected on  
17 behalf of or pursuant to an agreement with each manufacturer during the  
18 reporting period. All quantities of electronic waste reported by the  
19 collection site must separately include electronic waste generated by  
20 New York state consumers and electronic waste received from or shipped  
21 outside the state;

22 (c) manage electronic waste in a manner that complies with all appli-  
23 cable laws, rules and regulations;

24 (d) store electronic waste (i) in a fully enclosed building with a  
25 roof, floor and walls, or (ii) in a secure container (e.g., package or  
26 vehicle), that is constructed and maintained to minimize breakage of  
27 electronic waste and to prevent releases of hazardous materials to the  
28 environment;

1 (e) remove electronic waste from the site within one year of the  
2 waste's receipt at the site, and maintain records demonstrating compli-  
3 ance with this requirement.

4 2. Electronic waste consolidation facilities. (a) No later than Janu-  
5 ary first, two thousand eleven, each person who operates an electronic  
6 waste consolidation facility in the state shall register with the  
7 department on a form prescribed by the department. The department may  
8 require such form to be filed electronically. The registration shall  
9 include: (i) the name, address and telephone number of the owner and the  
10 operator of the facility; and (ii) the name, address and telephone  
11 number of the electronic waste consolidation facility. Any person who  
12 commences the operation of an electronic waste consolidation facility on  
13 or after January first, two thousand eleven shall register with the  
14 department at least thirty days prior to receiving any electronic waste.  
15 A registration is effective upon acceptance by the department. Any  
16 registration required by this paragraph shall be accompanied by a regis-  
17 tration fee of two hundred fifty dollars.

18 (b) Beginning March first, two thousand twelve, each person operating  
19 an electronic waste consolidation facility shall submit to the depart-  
20 ment an annual report for the period of April first, two thousand eleven  
21 through December thirty-first, two thousand eleven and each calendar  
22 year thereafter, on a form prescribed by the department. The department  
23 may require annual reports to be filed electronically. Annual reports  
24 shall include, but not be limited to, the following information: (i) the  
25 name and address of each electronic waste collection site from which the  
26 consolidation facility received electronic waste during the reporting  
27 period, along with the quantity, by weight, of electronic waste received  
28 from each collection site; (ii) the name and address of each person to

1 whom the electronic waste consolidation facility sent electronic waste  
2 during the reporting period, along with the quantity, by weight, of  
3 electronic waste that was sent to each such person; (iii) the weight of  
4 electronic waste collected on behalf of or pursuant to an agreement with  
5 each manufacturer during the reporting period; and (iv) a certification  
6 by the owner or operator of the electronic waste consolidation facility  
7 that such a facility has complied with the requirements of this title  
8 and all other applicable laws, rules, and regulations. All quantities of  
9 electronic waste reported by the consolidation facility must separately  
10 include electronic waste generated by New York state consumers and elec-  
11 tronic waste received from or shipped outside the state.

12 (c) Each person operating an electronic waste consolidation facility  
13 shall:

14 (i) manage electronic waste in a manner that complies with all appli-  
15 cable laws, rules and regulations;

16 (ii) store electronic waste (A) in a fully enclosed building with a  
17 roof, floor and walls, or (B) in a secure container (e.g., package or  
18 vehicle), that is constructed and maintained to minimize breakage of  
19 electronic waste and to prevent releases of hazardous materials to the  
20 environment;

21 (iii) have a means to control entry, at all times, to the active  
22 portion of the facility;

23 (iv) inform all employees who handle or have responsibility for manag-  
24 ing electronic waste about the proper handling and emergency procedures  
25 appropriate to the type or types of electronic waste handled at the  
26 facility;



1 (v) remove electronic waste from the site within one year of the  
2 waste's receipt at the site, and maintain records demonstrating compli-  
3 ance with this requirement; and

4 (vi) maintain the records required by paragraphs (a) and (b) of this  
5 subdivision and by subparagraph (v) of this paragraph on site and make  
6 them available for audit and inspection by the department for a period  
7 of three years.

8 (d) A person operating an electronic waste consolidation facility  
9 shall not engage in electronic waste recycling unless such person is  
10 also registered as an electronic waste recycling facility, and complies  
11 with the requirements of this section that are applicable to each type  
12 of facility.

13 (e) A person operating an electronic waste consolidation facility may  
14 accept electronic waste in the same manner as an electronic waste  
15 collection site provided that such person complies with the requirements  
16 of this section that are applicable to electronic waste collection  
17 sites.

18 3. Electronic waste recycling facilities. (a) No later than January  
19 first, two thousand eleven, each person operating an electronic waste  
20 recycling facility in the state shall register with the department on a  
21 form prescribed by the department. The department may require such form  
22 to be filed electronically. The registration shall include: (i) the  
23 name, address and telephone number of the owner and the operator of the  
24 facility; and (ii) the name, address, and telephone number of the elec-  
25 tronic waste recycling facility. Any person who commences the operation  
26 of an electronic waste recycling facility on or after January first, two  
27 thousand eleven shall register with the department at least thirty days  
28 prior to receiving any electronic waste. A registration is effective

1 upon acceptance by the department. Any registration required by this  
2 paragraph shall be accompanied by a registration fee of two hundred  
3 fifty dollars.

4 (b) Beginning March first, two thousand twelve, each person operating  
5 an electronic waste recycling facility shall submit to the department an  
6 annual report for the period of April first, two thousand eleven through  
7 December thirty-first, two thousand eleven and each calendar year there-  
8 after, on a form prescribed by the department. The department may  
9 require annual reports to be filed electronically. Annual reports shall  
10 include, but not be limited to, the following information: (i) the quan-  
11 tity, by weight, of electronic waste received from consumers in the  
12 state; (ii) the name and address of each electronic waste collection  
13 site and electronic waste consolidation facility from which electronic  
14 waste was received during the reporting period, along with the quantity,  
15 by weight, of electronic waste received from each person; (iii) the name  
16 and address of each person to whom the facility sent electronic waste or  
17 component materials during the reporting period, along with the quanti-  
18 ty, by weight, of electronic waste or component materials thereof sent  
19 to each such person; (iv) the weight of electronic waste collected on  
20 behalf of or pursuant to an agreement with each manufacturer during the  
21 reporting period; and (v) a certification by the owner or operator of  
22 the facility that such facility has complied with the requirements of  
23 this title and all other applicable laws, rules, and regulations. All  
24 quantities of electronic waste reported by the recycling facility must  
25 separately include electronic waste generated by New York state consum-  
26 ers and electronic waste received from or shipped outside the state.

27 (c) Each person operating an electronic waste recycling facility  
28 shall:

1 (i) manage and recycle electronic waste in a manner that complies with  
2 all applicable laws, rules and regulations;

3 (ii) store electronic waste (A) in a fully enclosed building with a  
4 roof, floor and walls, or (B) in a secure container (e.g., package or  
5 vehicle), that is constructed and maintained to minimize breakage of  
6 electronic waste and to prevent releases of hazardous materials to the  
7 environment;

8 (iii) have a means to control entry, at all times, through gates or  
9 other entrances to the active portion of the facility;

10 (iv) inform all employees who handle or have responsibility for manag-  
11 ing electronic waste about proper handling and emergency procedures  
12 appropriate to the type or types of electronic waste handled at the  
13 facility;

14 (v) remove electronic waste from the site within one year of the  
15 waste's receipt at the site, and maintain records demonstrating compli-  
16 ance with this requirement; and

17 (vi) maintain the records required by paragraphs (a) and (b) of this  
18 subdivision and by subparagraph (v) of this paragraph on site and make  
19 them available for audit and inspection by the department for a period  
20 of three years.

21 (d) A person operating an electronic waste recycling facility may also  
22 operate such facility as an electronic waste consolidation facility  
23 provided that such person complies with the requirements of this section  
24 that are applicable to each type of facility. Where a facility is oper-  
25 ated for both purposes, only one registration fee must be paid.

26 (e) A person operating an electronic waste recycling facility may  
27 accept electronic waste in the same manner as an electronic waste  
28 collection site provided that such person complies with the requirements

1 of this section that are applicable to electronic waste collection  
2 sites.

3 4. Except to the extent otherwise required by law, no manufacturer or  
4 person operating an electronic waste collection site, electronic waste  
5 consolidation facility or electronic waste recycling facility shall have  
6 any responsibility or liability for any data in any form stored on elec-  
7 tronic waste surrendered for recycling or reuse, unless such person  
8 misuses or knowingly and intentionally, or with gross negligence,  
9 discloses the data. This provision shall not prohibit any such person  
10 from entering into agreements that provide for the destruction of data  
11 on covered electronic equipment.

12 § 27-2615. Department responsibilities.

13 1. The department is authorized to promulgate rules and regulations  
14 necessary to implement and administer this title. At a minimum, the  
15 department shall promulgate rules and regulations on: standards for  
16 reuse; electronic waste acceptance credits; waivers of the recycling  
17 surchage; and acceptable alternative methods for the determination of  
18 state sales data.

19 2. The department shall (a) maintain a list of manufacturers who are  
20 registered pursuant to section 27-2605 of this title, (b) maintain a  
21 list of each such manufacturer's brands, and (c) post such lists on the  
22 department's website.

23 3. The department may waive the recycling surcharge payable by a  
24 manufacturer under this title when the manufacturer demonstrates in an  
25 application to the department it was unable to accept the weight of  
26 electronic waste required by section 27-2603 of this title despite the  
27 manufacturer's best efforts. The application shall be made with the  
28 annual report required by section 27-2617 of this title. The application

1 shall include such information as the department requires. A waiver  
2 provided pursuant to this subdivision shall not relieve a manufacturer  
3 from the obligation to comply with the provisions of this title not  
4 specifically addressed in such waiver.

5 § 27-2617. Reporting requirements.

6 1. Beginning March first, two thousand twelve, for the period of April  
7 first, two thousand eleven through December thirty-first, two thousand  
8 eleven and each calendar year thereafter, a manufacturer that offers  
9 covered electronic equipment for sale in this state shall submit a  
10 report to the department on a form prescribed by the department that  
11 includes the following:

12 (a) sales data reported by weight for the manufacturer's covered elec-  
13 tronic equipment sold in this state for the previous three calendar  
14 years, categorized by type to the extent known. If the manufacturer  
15 cannot provide accurate state sales data, it must explain why such data  
16 cannot be provided, and estimate state sales data by (i) dividing its  
17 national sales data by weight by the national population according to  
18 the most recent census and multiplying the result by the population of  
19 the state, or (ii) another method approved by the department;

20 (b) the quantity, by weight, of electronic waste collected for recycl-  
21 ing or reuse in this state, categorized by the type of covered electron-  
22 ic equipment collected during the reporting period, the methods used to  
23 accept the electronic waste, and the approximate weight of electronic  
24 waste accepted by each method used to the extent known;

25 (c) all quantities of electronic waste reported by the manufacturer  
26 must separately include electronic waste generated by New York state  
27 consumers and electronic waste received from or shipped outside the  
28 state: (i) the quantity, by weight, of electronic waste received direct-

1 ly from consumers in the state through a mail back program; (ii) the  
2 name and address of each electronic waste collection site, electronic  
3 waste consolidation facility, and electronic waste recycling facility at  
4 which electronic waste from consumers was received on behalf of the  
5 manufacturer during the reporting period, along with the quantity, by  
6 weight, of electronic waste received; and (iii) the name and address of  
7 each person to whom the manufacturer sent electronic waste or component  
8 materials during the reporting period, along with the quantity, by  
9 weight, of electronic waste or component materials thereof sent to each  
10 such person;

11 (d) the number of electronic waste acceptance credits purchased, sold,  
12 banked and traded during the reporting period, the number of electronic  
13 waste acceptance credits used to meet the requirements of section  
14 27-2603 of this title, and from whom they were purchased and to whom  
15 they were sold or traded, and the number of electronic waste acceptance  
16 credits retained as of the date of the report;

17 (e) the amount of any recycling surcharge owed for the reporting peri-  
18 od, with sufficient information to demonstrate the basis for the calcu-  
19 lation of the surcharge;

20 (f) the names and locations of electronic waste recycling facilities  
21 utilized by the manufacturer and entities to which electronic waste is  
22 sent for reuse, whether in the state or outside the state, including  
23 details on the methods of recycling or reuse of electronic waste, any  
24 disassembly or physical recovery operation used, and the environmental  
25 management measures implemented by such recycling facility or entity;

26 (g) information detailing the acceptance methods made available to  
27 consumers in municipalities which have a population of greater than ten

1 thousand and in each county of the state to meet the requirements of  
2 paragraph (a) of subdivision five of section 27-2605 of this title;

3 (h) a brief description of its public education program including the  
4 number of visits to the internet website and calls to the toll-free  
5 telephone number provided by the manufacturer as required by section  
6 27-2605 of this title;

7 (i) any other information as required by the department; and

8 (j) a signature by an officer, director, or other individual affirming  
9 the accuracy of the report.

10 2. The department may require annual reports to be filed electron-  
11 ically.

12 3. The report shall be accompanied by an annual reporting fee of three  
13 thousand dollars, and any recycling surcharge due pursuant to section  
14 27-2603 of this title.

15 4. The department shall submit a report on implementation of the title  
16 in this state to the governor and legislature by April first, two thou-  
17 sand twelve and every two years thereafter. The report must include, at  
18 a minimum, an evaluation of:

19 (a) the electronic waste stream in the state;

20 (b) recycling and reuse rates in the state for covered electronic  
21 equipment;

22 (c) a discussion of compliance and enforcement related to the require-  
23 ments of this title;

24 (d) recommendations for any changes to this title; and

25 (e) a discussion of opportunities for business development in the  
26 state related to the acceptance, collection, handling and recycling or  
27 reuse of electronic equipment in this state.

28 § 27-2619. Preemption.

1 Jurisdiction in all matters pertaining to electronic waste recycling,  
2 including but not limited to the obligations of manufacturers, retail-  
3 ers, electronic waste collection sites, electronic waste consolidation  
4 facilities and electronic waste recycling facilities with respect to  
5 electronic waste recycling, is, by this title, vested exclusively in the  
6 state. Any provision of any local law or ordinance, or any rule or regu-  
7 lation promulgated thereto, governing covered electronic equipment and  
8 the collection, reuse, or recycling of electronic waste shall upon the  
9 effective date of this title be preempted.

10 § 27-2621. Disposition of fees.

11 All fees and charges collected pursuant to this title shall be depos-  
12 ited into the environmental protection fund established pursuant to  
13 section ninety-two-s of the state finance law.

14 § 5. The environmental conservation law is amended by adding a new  
15 section 71-2729 to read as follows:

16 § 71-2729. Enforcement of title 26 of article 27 of this chapter.

17 1. a. Any consumer, as defined in title twenty-six of article twenty-  
18 seven of this chapter, who violates any provision of, or fails to  
19 perform any duty imposed by, section 27-2611 of this chapter, shall be  
20 liable for a civil penalty not to exceed one hundred dollars for each  
21 violation.

22 b. Any person, except a consumer, manufacturer, or an owner or opera-  
23 tor of an electronic waste collection site, electronic waste consol-  
24 idation facility, or electronic waste recycling facility as these terms  
25 are defined in title twenty-six of article twenty-seven of this chapter,  
26 who violates any provision, or fails to perform any duty imposed by  
27 section 27-2611 of this chapter, shall be liable for a civil penalty not  
28 to exceed two hundred fifty dollars for each violation.



1 c. Any manufacturer, or any person operating an electronic waste  
2 collection site, an electronic waste consolidation facility, or an elec-  
3 tronic waste recycling facility as those terms are defined in title  
4 twenty-six of article twenty-seven of this chapter, who:

5 i. fails to submit any report, registration, fee, or surcharge to the  
6 department as required by title twenty-six of article twenty-seven of  
7 this chapter shall be liable for a civil penalty not to exceed one thou-  
8 sand dollars for each day such report, registration, fee, or surcharge  
9 is not submitted; and

10 ii. violates any other provision of title twenty-six of article twen-  
11 ty-seven of this chapter or fails to perform any duty imposed by such  
12 title, except for subdivision four of section 27-2603 of this chapter,  
13 shall be liable for a civil penalty for each violation not to exceed one  
14 thousand dollars for the first violation, two thousand five hundred  
15 dollars for the second violation and five thousand dollars for the third  
16 and subsequent violations of this title within a twelve-month period.

17 d. Any retailer, as defined by section 27-2601 of this chapter, who  
18 violates any provision of title twenty-six of article twenty-seven of  
19 this chapter or fails to perform any duty imposed by such title, shall  
20 be liable for a civil penalty for each violation not to exceed two  
21 hundred fifty dollars for the first violation, five hundred dollars for  
22 the second violation and one thousand dollars for the third and subse-  
23 quent violations of this title in a twelve-month period.

24 e. Civil penalties under this section shall be assessed by the commis-  
25 sioner after a hearing or opportunity to be heard pursuant to the  
26 provisions of section 71-1709 of this article, or by the court in any  
27 action or proceeding pursuant to this section, and, in addition thereto,

1 such person may by similar process be enjoined from continuing such  
2 violation.

3 2. All penalties collected pursuant to this section shall be paid over  
4 to the commissioner for deposit to the environmental protection fund  
5 established pursuant to section ninety-two-s of the state finance law.

6 § 6. Subdivision 1 of section 72-0402 of the environmental conserva-  
7 tion law, as amended by chapter 62 of the laws of 1989, subparagraph (v)  
8 of paragraph f as amended and subparagraphs (vi) and (vii) of paragraph  
9 f as added by section 6 of part I of chapter 577 of the laws of 2004 and  
10 paragraph g as added by chapter 138 of the laws of 2000, is amended to  
11 read as follows:

12 1. [All generators shall submit annually to the department a fee in  
13 the amount to be determined as follows:

14 a. \$1,000 for generators of equal to or greater than fifteen tons per  
15 year and less than or equal to one hundred tons per year of hazardous  
16 waste.

17 b. \$6,000 for generators of greater than one hundred tons per year and  
18 less than or equal to five hundred tons per year of hazardous waste.

19 c. \$20,000 for generators of greater than five hundred tons per year  
20 and less than or equal to one thousand tons per year of hazardous waste.

21 d. \$40,000 for generators of greater than one thousand tons per year  
22 of hazardous waste.

23 e.] a. For the period beginning January 1, 2010, all generators of  
24 equal to or greater than fifteen tons per year of hazardous waste shall  
25 submit annually to the department a fee in the amount of one hundred  
26 thirty dollars per ton of hazardous waste generated not to exceed  
27 \$300,000, except not to exceed \$400,000 for those with greater than  
28 4,000 tons generated and less than or equal to 10,000 tons generated,

1 and not to exceed \$800,000 for those with greater than 10,000 tons  
2 generated.

3 b. \$3,000 for generators of equal to or greater than fifteen tons per  
4 year of hazardous wastewater, payable in addition to fees for hazardous  
5 wastes, other than wastewater, as required by [paragraphs a, b, c and d]  
6 paragraph a of this subdivision.

7 [f.] c. \$6,000 for generators of equal to or greater than fifteen  
8 thousand tons per year of hazardous wastewater, payable in addition to  
9 the fees for hazardous wastes, other than wastewater, as required by  
10 this subdivision.

11 d. No fee shall be payable for waste resulting from services which are  
12 provided:

13 (i) under a contract with the department, or with the department's  
14 written approval and in compliance with department regulations, or  
15 pursuant to an order of the department, the United States environmental  
16 protection agency or a court, related to the cleanup or remediation of a  
17 hazardous materials or hazardous waste spill, discharge, or surficial  
18 cleanup, pursuant to this chapter[, other than section 27-1313 or a  
19 removal action pursuant to the Comprehensive Environmental Response,  
20 Compensation and Liability Act (42 U.S.C. 9601 et seq.)]; or

21 (ii) under a contract for, or with the department's approval and in  
22 compliance with department regulations for, the cleanup and removal of a  
23 petroleum spill or discharge, pursuant to subdivision seven of section  
24 one hundred seventy-six of the navigation law; or

25 (iii) under the order of a court, the department or the department of  
26 health, or the United States environmental protection agency related to  
27 an inactive hazardous waste disposal site pursuant to section 27-1313 of  
28 this chapter, section thirteen hundred eighty-nine-b of the public

1 health law, or the Comprehensive Environmental Response, Compensation  
2 and Liability Act (42 U.S.C. 9601 et seq.); or

3 (iv) voluntarily and without expectation of monetary compensation in  
4 accordance with subdivision one of section 27-1321 of this chapter; or

5 (v) under permit or order requiring corrective action pursuant to  
6 title nine of article twenty-seven of this chapter, title twenty-seven  
7 of article seventy-one of this chapter or the Resource Conservation and  
8 Recovery Act (42 U.S.C. 6901 et seq.); or

9 (vi) under a brownfield site cleanup agreement with the department  
10 pursuant to section 27-1409 of this chapter; or

11 (vii) under an environmental restoration project state assistance  
12 contract with the department pursuant to section 56-0503 of this chap-  
13 ter.

14 [g.] e. Notwithstanding any other provision of this section, no fee  
15 shall be payable for the generation of universal wastes. For purposes of  
16 this paragraph, "universal wastes" shall mean those defined and listed  
17 in regulations promulgated pursuant to this title, provided that such  
18 wastes are regulated consistent with rules adopted by the administrator  
19 pursuant to RCRA for the management of universal wastes.

20 f. In any case where a generator recycles more than ninety percent of  
21 the amount of hazardous waste or more than ninety percent of the amount  
22 of hazardous wastewater it produces in any calendar year, as certified  
23 to the commissioner, upon which a fee is imposed pursuant to this  
24 section, any such fee imposed or to be imposed in such case shall be  
25 determined based upon the net amount of hazardous waste or hazardous  
26 wastewater generated, as applicable, which is not so recycled in such  
27 calendar year, rather than upon the gross amount of hazardous waste or  
28 hazardous wastewater generated in such calendar year.

1 § 7. Subdivision 4 of section 72-0402 of the environmental conserva-  
2 tion law, as added by chapter 471 of the laws of 1985 and renumbered by  
3 chapter 62 of the laws of 1989, is amended to read as follows:

4 4. Bills issued for annual hazardous waste program fees shall be  
5 [estimated bills] based [either:

6 a. upon the actual activity of the preceding calendar year, as  
7 reported to the department, or as adjusted by the department to reflect  
8 non-recurring events or reporting errors, or

9 b. in those instances where actual activity cannot be determined or  
10 where the status of a person subject to the provisions of this title has  
11 changed since the issuance of the bill for the preceding year so that a  
12 different fee category is applicable, upon estimated activity for the  
13 current calendar year, as determined by the department] upon actual  
14 hazardous waste generated for the prior calendar year, as demonstrated  
15 to the department's satisfaction. During the first year of implementa-  
16 tion of this subdivision, bills will be based on the average quantity of  
17 hazardous waste generated for the previous three calendar years.

18 § 8. Section 72-0403 of the environmental conservation law is  
19 REPEALED.

20 § 9. Paragraph b of subdivision 1 of section 72-0201 of the environ-  
21 mental conservation law, as added by chapter 38 of the laws of 1985, is  
22 amended to read as follows:

23 b. Notwithstanding any general or special law to the contrary, one-  
24 half of all monies collected by the department pursuant to section  
25 [72-0402 and section] 72-0502 of this article shall be deposited in the  
26 hazardous waste remedial fund, created pursuant to section ninety-sev-  
27 en-b of the state finance law.

1 § 10. Paragraph e of subdivision 1 of section 72-0201 of the environ-  
2 mental conservation law, as added by section 2 of part I of chapter 1 of  
3 the laws of 2003, is amended to read as follows:

4 e. Notwithstanding any general or special law to the contrary, all  
5 monies collected by the department pursuant to section [72-0403] 72-0402  
6 of this article shall be deposited as follows: (i) fifteen percent in  
7 the environmental protection fund established by section ninety-two-s of  
8 the state finance law not to exceed two million one hundred thousand  
9 dollars; and (ii) seventy-one percent in the industry fee transfer  
10 account of the hazardous waste remedial fund established by subdivision  
11 one of section ninety-seven-b of the state finance law.

12 § 11. Subdivisions 1, 3 and 5 of section 71-1307 of the environmental  
13 conservation law, subdivision 1 as amended by chapter 166 of the laws of  
14 1991, subdivision 3 as added by chapter 846 of the laws of 1981, and  
15 subdivision 5 as added by chapter 169 of the laws of 1994, are amended  
16 to read as follows:

17 1. Administrative sanctions. Any person who violates any provision of  
18 article 23 of this chapter or commits any offense described in section  
19 71-1305 of this title shall be liable to the people of the state for a  
20 civil penalty not to exceed [five] eight thousand dollars and an addi-  
21 tional penalty of [one] two thousand dollars for each day during which  
22 such violation continues, to be assessed by the commissioner after a  
23 hearing or opportunity to be heard. The commissioner, acting by the  
24 attorney general, may bring suit for collection of such assessed civil  
25 penalty in any court of competent jurisdiction. Such civil penalty may  
26 be released or compromised by the commissioner before the matter has  
27 been referred to the attorney general; and where such matter has been  
28 referred to the attorney general, any such penalty may be released or

1 compromised and any action commenced to recover the same may be settled  
2 and discontinued by the attorney general with the consent of the commis-  
3 sioner. In addition, the commissioner shall have the power, following a  
4 hearing conducted pursuant to rules and regulations adopted by the  
5 department, to direct the violator to cease the violation and reclaim  
6 and repair the affected site to a condition acceptable to the commis-  
7 sioner, to the extent possible within a reasonable time and under the  
8 direction and supervision of the commissioner. Any such order of the  
9 commissioner shall be enforceable in any action brought by the commis-  
10 sioner in any court of competent jurisdiction. Any civil penalty or  
11 order issued by the commissioner under this subdivision shall be review-  
12 able in a proceeding under article seventy-eight of the civil practice  
13 law and rules.

14 3. Criminal sanctions. Any person who, having any of the culpable  
15 mental states defined in sections 15.05 and 20.20 of the penal law,  
16 violates any provision of article 23 of this chapter or commits any  
17 offense described in section 71-1305 of this title shall be guilty of a  
18 misdemeanor and, upon conviction thereof, shall be punished by a fine  
19 not to exceed one thousand dollars for each day during which such  
20 violation continues or by imprisonment for a term of not more than one  
21 year, or by both such fine and imprisonment. If the conviction is for a  
22 subsequent offense committed after a first conviction of such person  
23 under this subdivision, punishment shall be by a fine not to exceed  
24 [five] eight thousand dollars for each day during which such violation  
25 continues or by imprisonment for a term of not more than one year, or by  
26 both such fine and imprisonment.

27 5. All fines collected pursuant to this section shall be paid into the  
28 [general fund to the credit of the state purposes account] environmental

1 protection fund established pursuant to section ninety-two-s of the  
2 state finance law.

3 § 12. Section 71-2303 of the environmental conservation law, as  
4 amended by chapter 654 of the laws of 1977, is amended to read as  
5 follows:

6 § 71-2303. Violation; penalties.

7 1. Administrative sanctions. Any person who violates, disobeys or  
8 disregards any provision of article twenty-four, including title five  
9 and section 24-0507 thereof or any rule or regulation, local law or  
10 ordinance, permit or order issued pursuant thereto, shall be liable to  
11 the people of the state for a civil penalty of not to exceed [three]  
12 eleven thousand dollars for every such violation, to be assessed, after  
13 a hearing or opportunity to be heard upon due notice and with the rights  
14 to specification of the charges and representation by counsel at such  
15 hearing, by the commissioner or local government. Such penalty may be  
16 recovered in an action brought by the attorney general at the request  
17 and in the name of the commissioner or local government in any court of  
18 competent jurisdiction. Such civil penalty may be released or compro-  
19 mised by the commissioner or local government before the matter has been  
20 referred to the attorney general; and where such matter has been  
21 referred to the attorney general, any such penalty may be released or  
22 compromised and any action commenced to recover the same may be settled  
23 and discontinued by the attorney general with the consent of the commis-  
24 sioner or local government. In addition, the commissioner or local  
25 government shall have power, following a hearing held in conformance  
26 with the procedures set forth in section 71-1709 of this [chapter] arti-  
27 cle, to direct the violator to cease his violation of the act and to  
28 restore the affected freshwater wetland to its condition prior to the



1 violation, insofar as that is possible within a reasonable time and  
2 under the supervision of the commissioner or local government. Any such  
3 order of the commissioner or local government shall be enforceable in an  
4 action brought by the attorney general at the request and in the name of  
5 the commissioner or local government in any court of competent jurisdic-  
6 tion. Any civil penalty or order issued by the commissioner or local  
7 government pursuant to this subdivision shall be reviewable in a  
8 proceeding pursuant to article seventy-eight of the civil practice law  
9 and rules.

10 2. Criminal sanctions. Any person who violates any provision of arti-  
11 cle twenty-four of this chapter, including any rule or regulation, local  
12 law or ordinance, permit or order issued pursuant thereto, shall, in  
13 addition, for the first offense, be guilty of a violation punishable by  
14 a fine of not less than [five hundred] two thousand nor more than [one]  
15 four thousand dollars; for a second and each subsequent offense he shall  
16 be guilty of a misdemeanor punishable by a fine of not less than [one]  
17 four thousand nor more than [two] seven thousand dollars or a term of  
18 imprisonment of not less than fifteen days nor more than six months or  
19 both. Instead of these punishments, any offender may be punishable by  
20 being ordered by the court to restore the affected freshwater wetland to  
21 its condition prior to the offense, insofar as that is possible. The  
22 court shall specify a reasonable time for the completion of such resto-  
23 ration, which shall be effected under the supervision of the commission-  
24 er or local government. Each offense shall be a separate and distinct  
25 offense and, in the case of a continuing offense, each day's continuance  
26 thereof shall be deemed a separate and distinct offense.

1 3. All fines collected pursuant to this section shall be paid into the  
2 environmental protection fund established pursuant to section ninety-  
3 two-s of the state finance law.

4 § 13. Section 71-1105 of the environmental conservation law, as  
5 amended by chapter 640 of the laws of 1977, is amended to read as  
6 follows:

7 § 71-1105. Enforcement of subdivision 4 of section 15-0313.

8 Any violation of subdivision 4 of section 15-0313 shall be a  
9 violation, punishable by a fine of not more than [five] one thousand  
10 eight hundred dollars, and in addition thereto, by a civil penalty of  
11 not more than [five] one thousand eight hundred dollars.

12 § 14. Subdivision 1 of section 71-2103 of the environmental conserva-  
13 tion law, as amended by section 21 of part C of chapter 62 of the laws  
14 of 2003, is amended to read as follows:

15 1. Except as provided in section 71-2113, any person who violates any  
16 provision of article nineteen or any code, rule or regulation which was  
17 promulgated pursuant thereto; or any order except an order directing  
18 such person to pay a penalty by a specified date issued by the commis-  
19 sioner pursuant thereto, shall be liable, in the case of a first  
20 violation, for a penalty not less than [three] five hundred [seventy-  
21 five] dollars nor more than [fifteen] eighteen thousand dollars for said  
22 violation and an additional penalty of not to exceed fifteen thousand  
23 dollars for each day during which such violation continues. In the case  
24 of a second or any further violation, the liability shall be for a  
25 penalty not to exceed [twenty-two] twenty-six thousand [five hundred]  
26 dollars for said violation and an additional penalty not to exceed twen-  
27 ty-two thousand five hundred dollars for each day during which such

1 violation continues. In addition thereto, such person may be enjoined  
2 from continuing such violation as hereinafter provided.

3 § 15. Subdivision 1 of section 71-2105 of the environmental conserva-  
4 tion law, as amended by section 22 of part C of chapter 62 of the laws  
5 of 2003, is amended to read as follows:

6 1. Except as provided in section 71-2113, any person who shall wilful-  
7 ly violate any of the provisions of article 19 or any code, rule or  
8 regulation promulgated pursuant thereto or any final determination or  
9 order of the commissioner made pursuant to article 19 shall be guilty of  
10 a misdemeanor, and, upon conviction thereof, shall be punished by a  
11 fine, in the case of a first conviction, of not less than [three] five  
12 hundred [seventy-five] dollars nor more than [fifteen] eighteen thousand  
13 dollars or by imprisonment for a term of not more than one year, or by  
14 both such fine and imprisonment, for each separate violation. If the  
15 conviction is for an offense committed after the first conviction of  
16 such person under this subdivision, such person shall be punished by a  
17 fine not to exceed [twenty-two] twenty-six thousand [five hundred]  
18 dollars, or by imprisonment, or by both such fine and imprisonment. Each  
19 day on which such violation occurs shall constitute a separate  
20 violation.

21 § 16. Section 71-4001 of the environmental conservation law, as added  
22 by chapter 640 of the laws of 1977, as renumbered by chapter 732 of the  
23 laws of 1980 and the opening paragraph as amended by chapter 602 of the  
24 laws of 2003, is amended to read as follows:

25 § 71-4001. General criminal penalty.

26 Except as otherwise specifically provided elsewhere in [the environ-  
27 mental conservation law] this chapter or in the penal law, (a) a person  
28 who violates any provision of [the environmental conservation law] this

1 chapter, or any rule, regulation or order promulgated pursuant thereto,  
2 or the terms or conditions of any permit issued thereunder, shall be  
3 guilty of a violation; (b) each day on which such violation occurs shall  
4 constitute a separate violation; and (c) for each such violation the  
5 person shall be subject upon conviction to imprisonment for not more  
6 than fifteen days or to a fine of not more than [two] nine hundred  
7 [fifty] dollars, or to both such imprisonment and such fine.

8 § 17. Section 71-4003 of the environmental conservation law, as  
9 amended by chapter 76 of the laws of 1982, is amended to read as  
10 follows:

11 § 71-4003. General civil penalty.

12 Except as otherwise specifically provided elsewhere in [the environ-  
13 mental conservation law] this chapter, a person who violates any  
14 provision of [the environmental conservation law] this chapter, or any  
15 rule, regulation or order promulgated pursuant thereto, or the terms or  
16 conditions of any permit issued thereunder, shall be liable to a civil  
17 penalty of not more than [five hundred] one thousand dollars, and an  
18 additional civil penalty of not more than [five hundred] one thousand  
19 dollars for each day during which each such violation continues. Any  
20 civil penalty provided for by this chapter may be assessed following a  
21 hearing or opportunity to be heard.

22 § 18. Severability clause. If any clause, sentence, paragraph, subdivi-  
23 sion, section or part of this act shall be adjudged by any court of  
24 competent jurisdiction to be invalid, such judgment shall not affect,  
25 impair, or invalidate the remainder thereof, but shall be confined in  
26 its operation to the clause, sentence, paragraph, subdivision, section  
27 or part thereof directly involved in the controversy in which such judg-  
28 ment shall have been rendered. It is hereby declared to be the intent of

1 the legislature that this act would have been enacted even if such  
2 invalid provisions had not been included herein.

3 § 19. This act shall take effect immediately; provided that sections  
4 one, two and six through ten of this act shall be deemed to have been in  
5 full force and effect on and after April 1, 2010.

