

LC 477  
2023 Regular Session  
34000-008  
10/26/22 (STN/ps)

# D R A F T

## SUMMARY

Modifies provisions of electronics recycling program. Expands definition of covered electronic device. Establishes criteria for electronics producer responsibility programs. Repeals requirement that Department of Environmental Quality establish state contractor program. Repeals requirement that department make certain calculations used in administration of program.

Directs Environmental Quality Commission to establish fee calculated to cover costs to department of carrying out program.

Establishes that changes to program become operative on July 1, 2025. Provides transition provisions.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to electronics recycling; creating new provisions; amending ORS 459.247, 459A.305, 459A.310, 459A.320, 459A.330, 459A.335, 459A.340, 459A.355 and 459A.360; repealing ORS 459A.315, 459A.322 and 459A.325; and prescribing an effective date.

**Be It Enacted by the People of the State of Oregon:**

## **ELECTRONICS PRODUCER RESPONSIBILITY (Changes to Oregon E-Cycles Program)**

**SECTION 1.** ORS 459A.305 is amended to read:

459A.305. As used in ORS 459A.305 to 459A.355:

(1) “Brand” means a name, symbols, words or marks that identify a covered electronic device, rather than any of its components, and attribute the device to the owner of the brand as the manufacturer.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (2) “Collector” means an entity that collects covered electronic devices  
2 as part of [*a manufacturer program or the state contractor program*] **an elec-**  
3 **tronics producer responsibility program.**

4 [(3) “*Computer peripheral*” means:]

5 [(a) *A keyboard or mouse sold exclusively for external use with a computer*  
6 *as a wireless or corded device that provides input into, or output from, a*  
7 *computer; or*]

8 [(b) *Cords used with a keyboard or mouse described in paragraph (a) of this*  
9 *subsection.*]

10 [(4)(a)] **(3)(a)** “Covered electronic device” means:

11 (A) A computer monitor of any type having a viewable area greater than  
12 four inches measured diagonally;

13 (B) A desktop computer or portable computer;

14 (C) A television;

15 (D) A [*computer*] peripheral; [*or*]

16 (E) A printer[.];

17 **(F) A facsimile machine;**

18 **(G) A videocassette recorder;**

19 **(H) A portable digital music player that has memory capability and**  
20 **is battery powered;**

21 **(I) A digital video disc player;**

22 **(J) A digital video disc recorder;**

23 **(K) A video game console;**

24 **(L) A digital converter box;**

25 **(M) A cable receiver;**

26 **(N) A satellite receiver;**

27 **(O) A router; or**

28 **(P) A modem.**

29 (b) “Covered electronic device” does not include:

30 (A) Any part of a motor vehicle;

31 (B) Any part of a larger piece of equipment designed and intended for use

1 in an industrial, commercial or medical setting, such as diagnostic, moni-  
2 toring or control equipment;

3 (C) Telephones or personal digital assistants of any type unless the tele-  
4 phone or personal digital assistant contains a viewable area greater than  
5 four inches measured diagonally; or

6 (D) Any part of a clothes washer, clothes dryer, refrigerator, freezer,  
7 microwave oven, conventional oven or range, dishwasher, room air condi-  
8 tioner, dehumidifier or air purifier.

9 [(5)] (4) “Covered entity” means any Oregon household, a business that  
10 employs 10 or fewer individuals, a [*not-for-profit*] **nonprofit** organization  
11 [*exempt from taxation under section 501(c)(3) of the Internal Revenue Code*]  
12 that employs 10 or fewer individuals, or any person giving seven or fewer  
13 covered electronic devices to a collector at any one time.

14 (5) “**Electronics producer responsibility organization**” means a  
15 **nonprofit organization designated by a manufacturer or group of**  
16 **manufacturers to act as an agent of the manufacturer or group of**  
17 **manufacturers for the purpose of developing and implementing an**  
18 **electronics producer responsibility program on behalf of the manufac-**  
19 **turer or group of manufacturers, as required by ORS 459A.305 to**  
20 **459A.355.**

21 (6) “**Electronics producer responsibility program**” means a statewide  
22 **program for collecting, transporting and recycling covered electronic**  
23 **devices that is implemented by an electronics producer responsibility**  
24 **organization pursuant to a plan approved by the Department of Envi-**  
25 **ronmental Quality under section 5 of this 2023 Act.**

26 [(6)] (7) “Environmentally sound management practices” means practices  
27 that comply with all applicable laws, including but not limited to adequate  
28 record keeping, tracking the fate of recycled materials, performance audits  
29 and inspections, provisions for reuse and refurbishment, compliance with  
30 worker health and safety requirements, maintaining liability insurance and  
31 financial assurances and practices that may be adopted by rule by the En-

1 vironmental Quality Commission.

2 [(7)(a)] **(8)(a)** “Manufacturer” means any person, irrespective of the sell-  
3 ing technique used, including by means of remote sale:

4 (A) That manufactures covered electronic devices under a brand that it  
5 owns or is licensed to use;

6 (B) That sells covered electronic devices manufactured by others under a  
7 brand that the seller owns;

8 (C) That manufactures covered electronic devices without affixing a  
9 brand;

10 (D) That manufactures covered electronic devices to which it affixes a  
11 brand that it does not own; or

12 (E) On whose account covered electronic devices manufactured outside  
13 the United States are imported into the United States. This subparagraph  
14 does not apply if, at the time the covered electronic devices are imported into  
15 the United States, another person is registered as the manufacturer of the  
16 brand of the covered electronic devices.

17 (b) “Manufacturer” does not include a person:

18 (A) With a license to manufacture covered electronic devices for delivery  
19 exclusively to or at the order of the licensor.

20 (B) That manufactures only [*computer*] peripherals and no other covered  
21 electronic devices.

22 [(8) “*Manufacturer program*” means a statewide plan for collecting, trans-  
23 porting and recycling covered electronic devices that is provided by a single  
24 manufacturer or group of manufacturers pursuant to ORS 459A.320.]

25 **(9) “Nonprofit organization” means an organization or group of or-  
26 ganizations described in section 501(c)(3) of the Internal Revenue Code  
27 that is exempt from income tax under section 501(a) of the Internal  
28 Revenue Code.**

29 [(9) “*Nontelevision device*” means a device described in subsection (4)(a)(A),  
30 (B), (D) or (E) of this section.]

31 [(10) “*Nontelevision market share*” means a manufacturer’s percentage of

1 *all registered covered electronic devices except those described in subsection*  
2 *(4)(a)(C) of this section that are sold in this state during a specified time pe-*  
3 *riod.]*

4 [(11)] **(10) “Orphan device”** means a covered electronic device for which  
5 no manufacturer can be identified.

6 **(11) “Peripheral” means:**

7 **(a) A keyboard, mouse or other device sold exclusively for external**  
8 **use with a covered electronic device as a wireless or corded device that**  
9 **provides input into, or output from, a covered electronic device;**

10 **(b) Cords used with a keyboard, mouse or other device described in**  
11 **paragraph (a) of this subsection; or**

12 **(c) Other devices or equipment sold for use with a covered elec-**  
13 **tronic device, as further defined by the commission by rule.**

14 (12) “Person” means the United States, the state or a public or private  
15 corporation, local government unit, public agency, individual, partnership,  
16 association, firm, trust, estate or other legal entity.

17 (13) “Portable computer” means any of the following that has a viewable  
18 area greater than four inches measured diagonally and that can be carried  
19 as one unit by an individual:

20 (a) A laptop computer;

21 (b) A notebook computer; or

22 (c) A notepad computer.

23 (14) “Premium service” means services such as at-location system upgrade  
24 services and at-home pickup services, including curbside pickup service.

25 (15)(a) “Printer” means a device that:

26 (A) Is used to make reproductions, or is multifunctional and performs one  
27 or more operations such as scanning or faxing in addition to making re-  
28 productions;

29 (B) Is designed to be placed on a desk or other work surface and may  
30 include an optional floor stand; and

31 (C) Uses print technology such as laser, electrographic, ink jet, dot ma-

1 trix, thermal or digital sublimation.

2 (b) “Printer” does not include a device used to make reproductions that:

3 (A) Is floor-standing;

4 (B) Is a point of sale receipt printer;

5 (C) Is also a calculator;

6 (D) Can also make labels; or

7 (E) Is embedded in something other than a covered electronic device.

8 (16)(a) “Recycling” means:

9 (A) Processing through disassembling, dismantling, shredding, transform-  
10 ing or remanufacturing covered electronic devices, components and by-  
11 products into usable or marketable raw materials or products in a manner  
12 such that the original products may lose their identity; or

13 (B) Smelting materials from components removed from covered electronic  
14 devices to recover metals for reuse in conformance with applicable laws and  
15 rules.

16 (b) “Recycling” does not include:

17 (A) Landfill disposal or incineration of covered electronic devices; or

18 (B) Energy recovery or energy generation by means of combusting covered  
19 electronic devices, components and by-products with or without other waste.

20 [(17) “Recycling credit” means a credit granted to a manufacturer program  
21 or a state contractor program for the collection, transport and recycling of  
22 covered electronic devices in an amount that exceeds the program’s return  
23 share by weight for a calendar year.]

24 [(18)] (17) “Retailer” means a person that offers new covered electronic  
25 devices for sale at retail through any means, including but not limited to  
26 remote offerings such as sales outlets, catalogs or the Internet.

27 [(19) “Return share” means the minimum percentage of covered electronic  
28 devices that an individual manufacturer is responsible for collecting, trans-  
29 porting and recycling.]

30 [(20) “Return share by weight” means the minimum total weight of covered  
31 electronic devices that an individual manufacturer is responsible for collecting,

1 *transporting and recycling.*]

2 [(21)(a)] **(18)(a)** “Sell” or “sale” means any transfer of title for consider-  
3 ation, including but not limited to remote sales conducted through sales  
4 outlets, catalogs or the Internet, or any other similar electronic means.

5 (b) “Sell” or “sale” does not include leases.

6 [(22) “State contractor program” means a statewide program for collecting,  
7 transporting and recycling covered electronic devices that is provided by the  
8 Department of Environmental Quality for manufacturers who pay a recycling  
9 fee to the department pursuant to ORS 459A.325.]

10 [(23)] **(19)** “Television” means a television of any type having a viewable  
11 area greater than four inches measured diagonally.

12 [(24) “Television market share” means a manufacturer’s percentage of the  
13 registered covered electronic devices described in subsection (4)(a)(C) of this  
14 section that are sold in this state during a specified time period.]

15 **SECTION 2.** ORS 459A.310 is amended to read:

16 459A.310. (1) ORS 459A.305 to 459A.355 apply to all manufacturers en-  
17 gaging in the activities set forth in ORS 459A.305 [(7)] **(8)** before, on or after  
18 June 7, 2007.

19 (2) ORS 459A.305 to 459A.355 do not apply to reused or refurbished cov-  
20 ered electronic devices.

21 (3) A manufacturer may not sell or offer for sale any covered electronic  
22 device[, *except for computer peripherals,*] in or for delivery in this state un-  
23 less:

24 **(a) Except as provided in subsection (4) of this section, the man-**  
25 **ufacturer participates in an electronics producer responsibility pro-**  
26 **gram that complies with the requirements of ORS 459A.305 to 459A.355;**

27 [(a)] **(b)** The covered electronic device is labeled with a brand and the  
28 label is permanently affixed and readily visible; and

29 [(b)] **(c)** The brand is included in [*the*] **a plan that is [filed with] approved**  
30 **by the Department of Environmental Quality pursuant to [ORS 459A.320]**  
31 **section 5 of this 2023 Act.**

1 (4) A manufacturer is not required to participate in an electronics  
2 producer responsibility program for a given year if the manufacturer  
3 provides proof to the department's satisfaction that the manufacturer  
4 sold fewer than 50 covered electronic devices in this state during the  
5 previous year.

6 (5) The failure of an electronics producer responsibility organization  
7 to satisfy any of the obligations delegated to it by a manufacturer does  
8 not relieve the manufacturer of the manufacturer's obligation to sat-  
9 isfy the requirements of ORS 459A.305 to 459A.355.

10 **SECTION 3.** ORS 459A.320 is amended to read:

11 459A.320. *[(1) A manufacturer choosing to implement a manufacturer pro-*  
12 *gram shall submit a plan to the Department of Environmental Quality at the*  
13 *time of payment of the annual registration fee required under ORS*  
14 *459A.315.]*

15 (1) In the form and manner prescribed by the Department of Envi-  
16 ronmental Quality, an electronics producer responsibility organization  
17 must annually submit to the department a plan for implementing an  
18 electronics producer responsibility program.

19 (2) The [manufacturer's] electronics producer responsibility  
20 organization's plan must describe how the [manufacturer] electronics pro-  
21 ducer responsibility organization will implement an electronics pro-  
22 ducer responsibility program that complies with ORS 459A.305 to  
23 459A.355, including how the electronics producer responsibility organ-  
24 ization will:

25 (a) Finance, manage and conduct a statewide program to collect covered  
26 electronic devices from covered entities in this state.

27 (b) Provide for environmentally sound management practices to collect,  
28 transport and recycle covered electronic devices.

29 (c) Provide for advertising and promotion of collection opportunities  
30 statewide and on a regular basis, as described in section 8 of this 2023  
31 Act.



1 (d)(A) *[Include convenient service in every county in this state and at least*  
2 *one collection site for any city with a population of at least 10,000.]* **Provide**  
3 **convenient service throughout the state, including to rural areas and**  
4 **historically underserved populations.**

5 (B) **At a minimum, convenient service must include a network of**  
6 **collection sites distributed to ensure that 95 percent of the residents**  
7 **of this state are within 15 miles of a collection site, and must include:**

8 (i) **At least one collection site in each county;**

9 (ii) **In each city with a population of at least 10,000 but less than**  
10 **200,000, at least one collection site, plus one additional collection site**  
11 **for every additional 20,000 residents of the city over 10,000; and**

12 (iii) **In each city with a population of 200,000 or greater, at least ten**  
13 **collection sites, plus one additional collection site for every additional**  
14 **50,000 residents of the city over 200,000.**

15 (C) **Collection sites described in subparagraphs (B)(ii) and (iii) of**  
16 **this paragraph must be located within two miles of the city boundaries**  
17 **and located to provide reasonably convenient and equitable access to**  
18 **all residents of the city served.**

19 (D) **A collection site for a county may be the same as a collection site**  
20 **for a city in the county. Collection sites shall be staffed and open to the**  
21 **public at a frequency adequate to meet the needs of the area being served.**  
22 *[A program]* **An electronics producer responsibility organization** may  
23 **provide collection service jointly with another** *[program]* **electronics pro-**  
24 **ducer responsibility organization.**

25 (E) **The department may waive the requirements of subparagraphs**  
26 **(A) to (D) of this paragraph with respect to a county or city if the**  
27 **proposed plan demonstrates to the department's satisfaction that the**  
28 **electronics producer responsibility organization can provide service in**  
29 **that county or city through an alternative method that adequately**  
30 **meets the needs of the jurisdiction.**

31 (e) **Ensure continuous improvement of the electronics producer re-**

1 **sponsibility program by:**

2 **(A) Establishing measurable goals for:**

3 **(i) Collection, such as amount collected or usage rates of collection**  
4 **services;**

5 **(ii) Increasing public awareness of the program; and**

6 **(iii) Reuse, such as amount collected and diverted for reuse.**

7 **(B) Evaluating every four years whether additional electronic de-**  
8 **vices should be included in the program.**

9 **(f) Coordinate with other electronics producer responsibility organ-**  
10 **izations, including through a coordinating body under section 6 of this**  
11 **2023 Act, if applicable.**

12 **(3) In addition to the information required under subsection (2) of**  
13 **this section, an electronics producer responsibility program plan must**  
14 **include:**

15 **(a) A list of all processors that will be used by the electronics pro-**  
16 **ducer responsibility program;**

17 **(b) The contact information for the electronics producer responsi-**  
18 **bility organization;**

19 **(c) A list of all manufacturers participating in the electronics pro-**  
20 **ducer responsibility program; and**

21 **(d) A list of all brands of covered electronic devices manufactured,**  
22 **sold or imported by each participating manufacturer, including:**

23 **(A) Those brands being offered for sale in this state by each man-**  
24 **ufacturer; and**

25 **(B) Those brands that were offered for sale in this state by each**  
26 **manufacturer during the previous year.**

27 *[(3) A manufacturer choosing to implement a manufacturer program*  
28 *shall:]*

29 *[(a) Meet or exceed the requirements for collection sites described in sub-*  
30 *section (2) of this section.]*

31 **(4) An electronics producer responsibility organization must:**

1 [(b)] (a) Provide for collection, transportation and recycling of covered  
2 electronic devices for covered entities free of charge, except that [*a man-*  
3 *ufacturer*] **an electronics producer responsibility program** that provides  
4 premium service for a covered entity may charge for the additional cost of  
5 that premium service.

6 [(c)] (b) Implement the plan required under this section.

7 (c) **Provide financial compensation to collection sites for their rea-**  
8 **sonable actual costs to collect and manage covered electronic devices.**

9 (d) **Enter into agreements with all willing, permitted transfer**  
10 **stations, as defined in ORS 459.005, to collect covered electronic de-**  
11 **vices in accordance with all applicable laws and the approved elec-**  
12 **tronics producer responsibility program plan.**

13 [(d)] (e) Conduct a statistically significant sampling or actual count of  
14 the covered electronic devices, except for [*computer*] peripherals, collected  
15 and recycled by the [*manufacturer*] **electronics producer responsibility**  
16 **program** each [*calendar*] year using a methodology approved by the depart-  
17 ment. The [*manufacturer*] **electronics producer responsibility organiza-**  
18 **tion** shall report the results of the sampling or count to the department at  
19 least annually or as required by the department. The sampling or count  
20 methodology must take into account information including but not limited  
21 to the device type, weight and brand of each unit sampled.

22 [(e)] (f) In addition to the report required by paragraph [(d)] (e) of this  
23 subsection, **in the form and manner prescribed by the department**, [*and*  
24 *no later than March 1 of each year, the manufacturer shall*] provide [*a*] **an**  
25 **annual** report to the department that:

26 (A) Includes the total weight of covered electronic devices, including or-  
27 phan devices and [*computer*] peripherals, collected from covered entities in  
28 this state by the [*manufacturer*] **electronics producer responsibility pro-**  
29 **gram** during the previous [*calendar*] year;

30 (B) Includes the total weight of each type of covered electronic device,  
31 including orphan devices and [*computer*] peripherals, collected from covered

1 entities in this state by the [*manufacturer*] **electronics producer responsi-**  
2 **bility program** during the previous [*calendar*] year; [*and*]

3 [*(C) Details how the plan required under this section was implemented*  
4 *during the previous calendar year.*]

5 **(C) Includes a list of all collection sites and processors used by the**  
6 **electronics producer responsibility program;**

7 **(D) Includes the total amount, by weight, of each type of covered**  
8 **electronic device, including orphan devices and peripherals, collected**  
9 **at each collection site, presented in a manner that assists the depart-**  
10 **ment in determining the rate of use of each collection site;**

11 **(E) Includes the results of any approved alternative methods of**  
12 **service in adequately meeting the needs of the applicable jurisdiction,**  
13 **including the date of each alternative service event and the total**  
14 **weight of each type of covered electronic device, including orphan de-**  
15 **vices and peripherals, collected at each alternative service event;**

16 **(F) Details how the plan required under this section was imple-**  
17 **mented during the previous year, including:**

18 **(i) A description of how the electronics producer responsibility or-**  
19 **ganization complied with subsection (2)(e) of this section that includes**  
20 **whether goals have been met, a summary of public awareness activ-**  
21 **ities and copies of public awareness materials developed by the elec-**  
22 **tronics producer responsibility organization; and**

23 **(ii) A summary of any safety or security problems that occurred**  
24 **during the collection, transportation or disposal of covered electronic**  
25 **devices and the actual or potential future resolutions of those prob-**  
26 **lems; and**

27 **(G) Includes an attestation that all covered electronic devices col-**  
28 **lected under the electronics producer responsibility program were**  
29 **collected and disposed of in compliance with all applicable laws, rules**  
30 **and regulations and in accordance with environmentally sound man-**  
31 **agement standards.**

1       **(g) Retain all records related to the implementation and adminis-**  
2 **tration of the electronics producer responsibility program for not less**  
3 **than five years from the time the record was created and make the**  
4 **records available for inspection and audit by the department upon re-**  
5 **quest.**

6       **(h) Provide, upon the request of the department, the contact in-**  
7 **formation and a point of contact for each manufacturer participating**  
8 **in the electronics producer responsibility program.**

9       **(5) The department shall review reports submitted under subsection**  
10 **(4)(f) of this section, and approve those reports that the department**  
11 **determines satisfy the requirements of subsection (4)(f) of this section.**  
12 **If the department does not approve a report, the department shall**  
13 **provide the electronics producer responsibility organization with writ-**  
14 **ten notice of revisions necessary for approval and the timeline for re-**  
15 **submittal.**

16       **(6) Rules adopted by the Environmental Quality Commission to**  
17 **implement this section may include standards for environmentally**  
18 **sound management practices and standards for participating collection**  
19 **sites.**

20       *[(4) A group of manufacturers may choose to implement a manufacturer*  
21 *program as one entity, if in doing so the manufacturers meet the sum of their*  
22 *individual return shares by weight under ORS 459A.340 (3) and that sum is*  
23 *at least five percent.]*

24       *[(5) By July 1 of each year, a manufacturer that does not meet its return*  
25 *share by weight for the previous calendar year shall pay the department for*  
26 *the amount not achieved at a rate determined by the department to be equiv-*  
27 *alent to the amount the manufacturer would have paid, plus 10 percent, to be*  
28 *part of the state contractor program under ORS 459A.340.]*

29       *[(6) A manufacturer participating in the state contractor program under*  
30 *ORS 459A.340 shall notify the department at the time of its registration each*  
31 *year.]*

1     *[(7) Except as provided in subsection (4) of this section, a manufacturer*  
2 *with less than a five percent return share is required to participate in the state*  
3 *contractor program under ORS 459A.340.]*

4     **SECTION 4.** Sections 5 to 8 of this 2023 Act are added to and made  
5 a part of ORS 459A.310 to 459A.335.

6     **SECTION 5.** (1) The Department of Environmental Quality shall  
7 approve an electronics producer responsibility program plan as pro-  
8 vided in this section if the department determines that the plan sat-  
9 isfies the requirements of ORS 459A.320.

10     (2) Not later than 60 days after receiving a plan under ORS 359A.320,  
11 the department shall either approve, approve with conditions or reject  
12 the plan. If the department rejects the plan, the department shall  
13 provide the reason or reasons for the rejection. An electronics pro-  
14 ducer responsibility organization must submit a revised plan to the  
15 department no later than 45 days after the date of the rejection.

16     (3) No later than 45 days after receiving a revised plan under sub-  
17 section (2) of this section, the department shall either approve, ap-  
18 prove with conditions or reject the revised plan.

19     (4) If the department rejects a revised plan, the department may:

20     (a) Require the electronics producer responsibility organization to  
21 further revise the plan in accordance with a timeline set forth by the  
22 department;

23     (b) Direct changes to the revised plan; or

24     (c) Direct the manufacturer or manufacturers on whose behalf the  
25 revised plan was submitted to register with an electronics producer  
26 responsibility organization with an approved plan.

27     (5) If the department directs changes to a revised plan under sub-  
28 section (4) of this section, the electronics producer responsibility or-  
29 ganization must implement the changes or request a hearing under  
30 ORS chapter 183.

31     **SECTION 6.** If the Department of Environmental Quality approves

1 more than one electronics producer responsibility program plan to be  
2 implemented:

3 (1) Two or more electronics producer responsibility organizations  
4 may coordinate to jointly provide collection services or other activities  
5 required under ORS 459A.305 to 459A.355.

6 (2) Two or more electronics producer responsibility organizations  
7 may authorize a coordinating body to coordinate activities required  
8 under ORS 459A.305 to 459A.355.

9 (3) Each electronics producer responsibility organization must co-  
10 ordinate with all other electronics producer responsibility organiza-  
11 tions to calculate market share if market share will be used by  
12 electronics producer responsibility organizations to apportion respon-  
13 sibility for developing and implementing educational resources and  
14 public awareness activities under section 8 of this 2023 Act, for jointly  
15 providing collection services or for satisfying any other obligations  
16 under ORS 459A.305 to 459A.355.

17 (4) The department may require two or more electronics producer  
18 responsibility organizations to coordinate activities required under  
19 ORS 459A.305 to 459A.355 through a coordinating body.

20 SECTION 7. (1) The Environmental Quality Commission shall es-  
21 tablish by rule an annual fee, which must be reasonably calculated to  
22 cover the costs to the Department of Environmental Quality of im-  
23 plementing, administering and enforcing ORS 459A.305 to 459A.355.

24 (2) The commission shall establish by rule a one-time plan review  
25 fee reasonably calculated to cover the costs to the department of re-  
26 viewing the initial electronics producer responsibility program plan  
27 submitted to the department for approval under section 5 of this 2023  
28 Act by each electronics producer responsibility organization. The de-  
29 partment may not approve an initial plan under section 5 of this 2023  
30 Act if the electronics producer responsibility organization has not paid  
31 the fee required by this subsection.

1       **SECTION 8.** (1) An electronics producer responsibility organization  
2 shall develop educational resources and public awareness activities to  
3 advertise and promote, on a regular basis, recycling of covered elec-  
4 tronic devices and collection opportunities statewide. At a minimum,  
5 an electronics producer responsibility organization must:

6       (a) Promote recycling of covered electronic devices through the  
7 electronics producer responsibility program;

8       (b) Establish a toll-free telephone number and a website address  
9 that a covered entity may use to contact the electronics producer re-  
10 sponsibility organization about the electronics producer responsibility  
11 program; and

12       (c) Publicize information on the location of collection sites and all  
13 other collections services offered by the electronics producer respon-  
14 sibility program.

15       (2) If the Department of Environmental Quality approves more than  
16 one electronics producer responsibility program plan, each electronics  
17 producer responsibility organization must coordinate with all other  
18 electronics producer responsibility organizations to implement ongoing  
19 public awareness activities to ensure that covered entities can easily  
20 identify, understand and access the services provided by all electronics  
21 producer responsibility programs that are operational in this state.  
22 The public awareness activities must:

23       (a) Utilize a statewide system of promotion;

24       (b) Be uniformly branded to allow covered entities to easily under-  
25 stand that all electronics producer responsibility organizations are  
26 providing services under ORS 459A.305 to ORS 459A.355; and

27       (c) Satisfy the requirements of subsection (1) of this section, in-  
28 cluding providing a single website and toll-free telephone number  
29 listing the collection services of all electronics producer responsibility  
30 programs.

31       **SECTION 9.** Section 10 of this 2023 Act is added to and made a part



1 of ORS 459A.305 to 459A.355.

2 **SECTION 10.** (1) The Department of Environmental Quality may  
3 require a manufacturer or an electronics producer responsibility or-  
4 ganization to submit information to the department to evaluate com-  
5 pliance with ORS 459A.305 to 459A.355. A manufacturer or electronics  
6 producer responsibility organization must submit any data or infor-  
7 mation required by the department under this subsection in the for-  
8 mat requested by the department.

9 (2) Trade secrets, as defined in ORS 646.461, and information pro-  
10 tected by trademark or patent that the department receives from an  
11 electronics producer responsibility organization or manufacturer pur-  
12 suant to ORS 459A.305 to 459A.355 are confidential and not subject to  
13 public disclosure under ORS 192.311 to 192.478, except that the depart-  
14 ment may disclose summarized information or aggregated data if the  
15 information or data does not directly or indirectly identify the infor-  
16 mation of a specific electronics producer responsibility organization  
17 or manufacturer. For purposes of this subsection, compilations of  
18 publicly available information, which may have economic value, are  
19 not considered to be confidential information.

20 **SECTION 11.** ORS 459A.335 is amended to read:

21 459A.335. (1) A retailer may not sell or offer for sale any covered elec-  
22 tronic device, except for [*computer*] peripherals, in or for delivery into this  
23 state unless:

24 (a) The covered electronic device is labeled with a brand and the label is  
25 permanently affixed and readily visible;

26 (b) The brand is included on the list [*posted*] **made publicly available**  
27 by the Department of Environmental Quality pursuant to ORS 459A.340 (1);  
28 and

29 (c) The list [*posted*] **made publicly available** by the department pursuant  
30 to ORS 459A.340 [(1)] (3) specifies that the manufacturer is in compliance  
31 with the requirements of ORS 459A.305 to 459A.355.

1 (2) A retailer shall provide to a consumer at the time of the sale of a  
2 covered electronic device information from the department's website that  
3 provides details about where and how a consumer can recycle covered elec-  
4 tronic devices in Oregon. The information shall be provided in printed form  
5 for in-store sales and in printable form for Internet sales and other sales  
6 where the Internet is involved.

7 **SECTION 12.** ORS 459A.340 is amended to read:

8 459A.340. The Department of Environmental Quality shall **make publicly**  
9 **available:**

10 *[(1) Maintain and make available on its website the following lists, which*  
11 *must be updated by the first day of each month:]*

12 *[(a)] (1) A list of registered manufacturers and their brands;*

13 *[(b)] (2) A list of brands for which no manufacturer has registered; [and]*

14 *[(c)] (3) A list that identifies which manufacturers are in compliance with*  
15 *ORS 459A.305 to 459A.355[.];*

16 **(4) Electronics producer responsibility program plans submitted to**  
17 **the department under ORS 459A.320;**

18 **(5) Revised plans submitted to the department under section 5 of**  
19 **this 2023 Act;**

20 **(6) Reports submitted to the department under ORS 459A.320; and**

21 *[(2) Review and approve manufacturer plans that comply with ORS*  
22 *459A.320 and are submitted annually by manufacturers choosing to implement*  
23 *a manufacturer program for recycling covered electronic devices.]*

24 *[(3)(a) For each calendar year, determine:]*

25 *[(A) The total weight in pounds of covered electronic devices, including*  
26 *orphan devices and computer peripherals, to be collected; and]*

27 *[(B) Of the total weight determined under subparagraph (A) of this para-*  
28 *graph, the proportion that is equal to the total weight of televisions and the*  
29 *proportion that is equal to the total weight of nontelevision devices.]*

30 *[(b) For each calendar year, determine each manufacturer's television mar-*  
31 *ket share and nontelevision market share as follows:]*

1       [(A) A manufacturer's television market share shall be determined by di-  
2       viding the total weight in pounds of televisions sold in this state under brands  
3       manufactured, sold or imported by the manufacturer during the previous cal-  
4       endar year by the total weight in pounds of televisions sold in this state under  
5       all brands manufactured, sold or imported by all registered manufacturers  
6       during the previous calendar year.]

7       [(B) A manufacturer's nontelelevision market share shall be determined by  
8       dividing the total weight in pounds of nontelelevision devices sold in this state  
9       under brands manufactured, sold or imported by the manufacturer during the  
10      previous calendar year by the total weight in pounds of nontelelevision devices  
11      sold in this state under all brands manufactured, sold or imported by all  
12      registered manufacturers during the previous calendar year.]

13      [(C) The department may use national market data prorated for Oregon,  
14      retail or manufacturer data, consumer research or any other data from the  
15      previous calendar year, as determined by the department, to make the deter-  
16      minations described in this paragraph. The department may require a man-  
17      ufacturer to submit sales or other data regarding the number and weight of  
18      covered electronic devices sold in this state by the manufacturer. A manufac-  
19      turer must submit any data required by the department under this subpara-  
20      graph in the format requested by the department.]

21      [(c) Determine the return share and return share by weight each calendar  
22      year for each manufacturer as follows:]

23      [(A) A manufacturer's return share by weight shall be equal to the sum of  
24      the manufacturer's return share by weight for televisions as calculated under  
25      subparagraph (B) of this paragraph and the manufacturer's return share by  
26      weight for nontelelevision devices as calculated under subparagraph (C) of this  
27      paragraph.]

28      [(B) A manufacturer's return share by weight for televisions shall be equal  
29      to the product of the manufacturer's television market share as determined  
30      under paragraph (b)(A) of this subsection multiplied by the total weight of  
31      television devices to be collected as determined under paragraph (a)(B) of this

1 *subsection.]*

2 *[(C) A manufacturer's return share by weight for nontelevision devices shall*  
3 *be equal to the product of the manufacturer's nontelevision market share as*  
4 *determined under paragraph (b)(B) of this subsection multiplied by the total*  
5 *weight of nontelevision devices to be collected as determined under paragraph*  
6 *(a)(B) of this subsection.]*

7 *[(D) A manufacturer's return share shall be equal to the quotient of the*  
8 *manufacturer's return share by weight divided by the sum total of the return*  
9 *shares by weight for all manufacturers.]*

10 *[(d) By May 1 of each year, provide to each manufacturer that had a return*  
11 *share determined under this section its return share and its return share by*  
12 *weight for the following year.]*

13 *[(4) Establish a state contractor program for the collection, transportation*  
14 *and recycling of covered electronic devices from covered entities in this state.*  
15 *The state contractor program shall:]*

16 *[(a) To the extent practicable, use existing local collection, transportation*  
17 *and recycling infrastructure.]*

18 *[(b) Utilize environmentally sound management practices to collect, trans-*  
19 *port and recycle covered electronic devices.]*

20 *[(c) Provide for covered entities, free of charge, convenient and available*  
21 *collection services and sites for covered electronic devices in both rural and*  
22 *urban areas.]*

23 *[(d) Advertise and promote collection opportunities statewide and on a*  
24 *regular basis.]*

25 *[(e) Conduct a statistically significant sampling or actual count of the cov-*  
26 *ered electronic devices, except for computer peripherals, collected and recycled*  
27 *by the state contractor program during each calendar year using a methodology*  
28 *approved by the department. The state contractor shall report the results of the*  
29 *sampling or count to the department at least annually or as required by the*  
30 *department. The methodology must take into account information including but*  
31 *not limited to the device type, weight and brand of each unit sampled.]*

1 [(f) No later than March 1 of the following calendar year, report, for the  
2 previous calendar year:]

3 [(A) The total weight of covered electronic devices, including orphan devices  
4 and computer peripherals, collected from covered entities in this state by the  
5 state contractor program; and]

6 [(B) The total weight of each type of covered electronic device, including  
7 orphan devices and computer peripherals, collected from covered entities in this  
8 state by the state contractor program during the previous calendar year.]

9 [(5) Determine a manufacturer's annual registration fee for purposes of  
10 ORS 459A.315 (2). In determining a manufacturer's annual registration fee, the  
11 department may use national market data prorated for Oregon, retail or man-  
12 ufacturer data, consumer research or any other data from the previous calendar  
13 year, as determined by the department. The department may require a man-  
14 ufacturer to submit sales or other data regarding the number of covered elec-  
15 tronic devices sold in this state by the manufacturer. A manufacturer must  
16 submit any data required by the department under this subsection in the for-  
17 mat requested by the department.]

18 [(6) Determine the recycling fee to be paid under ORS 459A.325 by each  
19 manufacturer that participates in the state contractor program established  
20 pursuant to subsection (4) of this section. The department shall determine the  
21 recycling fees based on the manufacturer's annual return share and return  
22 share by weight as determined under subsection (3) of this section.]

23 (7) [Maintain on its website] Information on collection opportunities for  
24 covered electronic devices, including collection site locations and hours. The  
25 information must be made available in a printable format for retailers.

26 [(8) Report biennially to the Legislative Assembly on the operation of the  
27 statewide system for collection, transportation and recycling of covered elec-  
28 tronic devices.]

29 **SECTION 13. ORS 459A.315, 459A.322 and 459A.325 are repealed.**

30

31

**(Conforming Amendments)**

1        **SECTION 14.** ORS 459.247 is amended to read:

2        459.247. (1) No person shall dispose of and no disposal site operator shall  
3 knowingly accept for disposal the following types of solid waste at a solid  
4 waste disposal site:

- 5        (a) Discarded or abandoned vehicles;
- 6        (b) Discarded large home or industrial appliances;
- 7        (c) Used oil;
- 8        (d) Tires;
- 9        (e) Lead-acid batteries; or
- 10       (f) Covered electronic devices.

11       (2) As used in this section:

12       (a) “Covered electronic device” [*has the meaning given that term in ORS*  
13 *459A.305, except that “covered electronic device” does not include a computer*  
14 *peripheral or a printer as those items are defined in ORS 459A.305; and*]

15       **means:**

16       **(A) A computer monitor of any type having a viewable area greater**  
17 **than four inches measured diagonally;**

18       **(B) A desktop computer or a portable computer as defined in ORS**  
19 **459A.305; or**

20       **(C) A television as defined in ORS 459A.305.**

21       (b) “Used oil” has the meaning given that term in ORS 459A.555.

22       (3) Nothing in this section shall prohibit a disposal site operator from  
23 accepting and storing, for purposes of recycling or recovering, any of the  
24 types of solid waste listed in subsection (1) of this section.

25       (4) The Environmental Quality Commission may postpone the prohibition  
26 under subsection (1)(f) of this section in any area of this state where the  
27 commission determines there is an inadequate system for the collection,  
28 transportation and recycling of covered electronic devices.

29       (5)(a) Each disposal site operator shall establish and implement, in ac-  
30 cordance with any permit requirements established by the Department of  
31 Environmental Quality, a program reasonably designed to prevent acceptance

1 of covered electronic devices for disposal. If an operator operates the dis-  
2 posal site in conformity with the program, the operator is presumed to have  
3 complied with the provisions of this section that prohibit knowingly accept-  
4 ing covered electronic devices for disposal.

5 (b) This section does not prevent the disposal site operator from accepting  
6 and storing, for purposes of recycling, reusing or refurbishing, covered elec-  
7 tronic devices.

8 **SECTION 15.** ORS 459A.330 is amended to read:

9 459A.330. (1) Except as authorized in subsection (2) of this section, [*a*  
10 *manufacturer program, the state contractor program*] **an electronics pro-**  
11 **ducer responsibility program** or a collector participating in [*a manufac-*  
12 *turer program or the state contractor program*] **an electronics producer**  
13 **responsibility program** may not charge a fee to covered entities for the  
14 collection, transportation or recycling of covered electronic devices.

15 (2) A collector that provides a premium service to a covered entity may  
16 charge for the additional cost of providing the premium service.

17 **SECTION 16.** ORS 459A.355 is amended to read:

18 459A.355. The Covered Electronic Devices Account is established separate  
19 and distinct from the General Fund. Interest earned by the account shall be  
20 credited to the account. Moneys in the account are continuously appropri-  
21 ated to the Department of Environmental Quality and may be used only to  
22 pay the costs of **administering**, implementing **and enforcing** ORS 459A.305  
23 to 459A.355 and enforcing the prohibition in ORS 459.247 relating to disposal  
24 of covered electronic devices.

25 **SECTION 17.** ORS 459A.360 is amended to read:

26 459A.360. (1) The Department of Environmental Quality shall evaluate  
27 any federal law that establishes a national program for the collection and  
28 recycling of electronic devices.

29 (2) If the department determines that the federal law substantially meets  
30 or exceeds the requirements and intent of ORS 459A.305 to 459A.355, the  
31 department shall include information on the federal law in [*the next biennial*

1 *report to the Legislative Assembly pursuant to ORS 459A.340.] a report to*  
2 **the Legislative Assembly in the manner provided by ORS 192.245.**

3

4

## TRANSITIONAL PROVISIONS

5

6 **SECTION 18. (1) Sections 5 to 8 and 10 of this 2023 Act, the**  
7 **amendments to ORS 459.247, 459A.305, 459A.310, 459A.320, 459A.330,**  
8 **459A.335, 459A.340, 459A.355 and 459A.360 by sections 1 to 3, 11, 12 and**  
9 **14 to 17 of this 2023 Act and the repeal of ORS 459A.315, 459A.322 and**  
10 **459A.325 by section 13 of this 2023 Act become operative on July 1, 2025.**

11 **(2) The Department of Environmental Quality and the Environ-**  
12 **mental Quality Commission may take any action before the operative**  
13 **date specified in subsection (1) of this section that is necessary to en-**  
14 **able the department and the commission to exercise, on and after the**  
15 **operative date specified in subsection (1) of this section, all the duties,**  
16 **functions and powers conferred on the department and the commission**  
17 **by sections 5 to 8 and 10 of this 2023 Act, the amendments to ORS**  
18 **459.247, 459A.305, 459A.310, 459A.320, 459A.330, 459A.335, 459A.340,**  
19 **459A.355 and 459A.360 by sections 1 to 3, 11, 12 and 14 to 17 of this 2023**  
20 **Act and the repeal of ORS 459A.315, 459A.322 and 459A.325 by section**  
21 **13 of this 2023 Act.**

22 **SECTION 19. (1) Notwithstanding the operative date specified in**  
23 **section 18 of this 2023 Act, sections 5 to 8 and 10 of this 2023 Act and**  
24 **the amendments to ORS 459A.305 and 459A.320 by sections 1 and 3 of**  
25 **this 2023 Act apply to electronics producer responsibility program**  
26 **plans submitted to the Department of Environmental Quality pursuant**  
27 **to subsection (2) of this section.**

28 **(2) An electronics producer responsibility organization that plans**  
29 **to implement an electronics producer responsibility program beginning**  
30 **July 1, 2025, must submit an electronics producer responsibility pro-**  
31 **gram plan to the department no later than November 1, 2024.**



1       **SECTION 20.** (1) Notwithstanding ORS 459A.340 (3), for the period  
2 beginning January 1, 2025, and ending June 30, 2025:

3       (a) The total weight of covered electronic devices to be collected  
4 shall be equal to one half of the total weight of covered electronic  
5 devices to be collected for the 2024 calendar year determined by the  
6 Department of Environmental Quality under ORS 459A.340 (3).

7       (b) A manufacturer's television market share, nontelelevision market  
8 share, return share and return share by weight shall be equal to one  
9 half of the manufacturer's television market share, nontelelevision  
10 market share, return share and return share by weight for the 2024  
11 calendar year, respectively, as determined by the department under  
12 ORS 459A.340 (3).

13       (2) Notwithstanding ORS 459A.315 (1), on or after October 1, 2023,  
14 and before January 1, 2024, a manufacturer of covered electronic de-  
15 vices sold or offered for sale in this state shall register with the de-  
16 partment for the period beginning January 1, 2024, and ending June  
17 30, 2025. The registration shall be on a form provided by the depart-  
18 ment and shall include the information required under ORS 459A.315  
19 (1)(a) to (c).

20       (3) Notwithstanding ORS 459A.315 (2) and 459A.340 (5), in lieu of the  
21 annual registration fee to be paid by manufacturers of covered elec-  
22 tronic devices not later than July 1, 2024, a manufacturer of covered  
23 electronic devices shall pay to the department a fee reasonably calcu-  
24 lated by the department to cover the costs to the department of im-  
25 plementing ORS 459A.305 to 459A.355, excluding costs incurred under  
26 ORS 459A.340 (4), for the period beginning January 1, 2024, and ending  
27 June 30, 2025. In determining the fee under this subsection, the de-  
28 partment may use data, or require a manufacturer to submit data, in  
29 the same manner as provided by ORS 459A.340 (5). A manufacturer  
30 shall pay the fee determined under this subsection no later than July  
31 1, 2024.

1       **(4)(a) Notwithstanding ORS 459A.340 (2), the department may extend**  
2 **the approval of manufacturer plan previously approved by the depart-**  
3 **ment for the 2024 calendar year so that a manufacturer may imple-**  
4 **ment the manufacturer program, as provided in the previously**  
5 **approved plan, for the period beginning January 1, 2025, and ending**  
6 **June 30, 2025.**

7       **(b) Notwithstanding ORS 459A.320 (1), a manufacturer that has a**  
8 **program plan approval extended under paragraph (a) of this subsection**  
9 **is not required to submit an additional plan for approval for any part**  
10 **of the 2025 calendar year.**

11       **(5) Notwithstanding ORS 459A.325 and 459A.340 (6), the recycling fee**  
12 **under ORS 459A.325 that is to be paid no later than September 1, 2024,**  
13 **by manufacturers participating in the state contractor program shall**  
14 **be based on each manufacturer’s return share and return share by**  
15 **weight as determined under subsection (1) of this section and calcu-**  
16 **lated by the department to cover the costs of collecting, transporting**  
17 **and recycling the manufacturer’s return share of covered electronic**  
18 **devices for January 1, 2025, to June 30, 2025.**

19       **SECTION 21.** **(1) Notwithstanding the amendments to ORS 459A.320**  
20 **by section 3 of this 2023 Act:**

21       **(a) No later than October 1, 2025, a manufacturer choosing to im-**  
22 **plement a manufacturer program for January 1, 2025, to June 30, 2025,**  
23 **shall provide a report to the Department of Environmental Quality**  
24 **that:**

25       **(A) Includes the total weight of covered electronic devices, includ-**  
26 **ing orphan devices and computer peripherals, collected from covered**  
27 **entities in this state by the manufacturer from January 1, 2025, to**  
28 **June 30, 2025;**

29       **(B) Includes the total weight of each type of covered electronic de-**  
30 **vice, including orphan devices and computer peripherals, collected**  
31 **from covered entities in this state by the manufacturer from January**

1 **1, 2025, to June 30, 2025; and**

2 **(C) Details how the manufacturer plan was implemented from**  
3 **January 1, 2025, to June 30, 2025.**

4 **(b) By July 1, 2025, a manufacturer that does not meet its return**  
5 **share by weight for the 2024 calendar year shall pay the department**  
6 **for the amount not achieved at a rate determined by the department**  
7 **to be equivalent to the amount the manufacturer would have paid,**  
8 **plus 10 percent, to be part of the state contractor program under ORS**  
9 **459A.340.**

10 **(c) By January 1, 2026, a manufacturer that does not meet its return**  
11 **share by weight for the period beginning January 1, 2025, and ending**  
12 **June 30, 2025, shall pay the department for the amount not achieved**  
13 **at a rate determined by the department to be equivalent to the amount**  
14 **the manufacturer would have paid, plus 10 percent, to be part of the**  
15 **state contractor program under ORS 459A.340.**

16 **(2) Notwithstanding the amendments to ORS 459A.340 by section 12**  
17 **of this 2023 Act, no later than October 1, 2025, the state contractor**  
18 **program shall provide a report to the department that:**

19 **(a) Includes the total weight of covered electronic devices, including**  
20 **orphan devices and computer peripherals, collected from covered en-**  
21 **tities in this state by the state contractor program from January 1,**  
22 **2025, to June 30, 2025; and**

23 **(b) Includes the total weight of each type of covered electronic de-**  
24 **vice, including orphan devices and computer peripherals, collected**  
25 **from covered entities in this state by the state contractor program**  
26 **from January 1, 2025, to June 30, 2025.**

27

28

## CAPTIONS

29

30 **SECTION 22. The unit captions used in this 2023 Act are provided**  
31 **only for the convenience of the reader and do not become part of the**

1 **statutory law of this state or express any legislative intent in the**  
2 **enactment of this 2023 Act.**

3

4

**EFFECTIVE DATE**

5

6 **SECTION 23. This 2023 Act takes effect on the 91st day after the**  
7 **date on which the 2023 regular session of the Eighty-second Legislative**  
8 **Assembly adjourns sine die.**

9

\_\_\_\_\_