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SB-1215 Electronic Waste Recycling Act of 2003: covered battery-embedded products. (2021-2022)

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Senate Bill No. 1215

CHAPTER 370

An act to amend Sections 25214.10 and 25214.10.1 of the Health and Safety Code, and to amend Sections 41516, 42461, 42463, 42464, 42464.2, 42464.4, 42464.6, 42464.8, 42465, 42465.1, 42465.2, 42465.3, 42474, 42474.5, 42475, 42475.2, 42475.3, 42475.4, 42476, 42476.5, 42477, 42478, 42479, and 42485 of, to amend the heading of Article 3 (commencing with Section 42464) of Chapter 8.5 of Part 3 of Division 30 of, and to add Sections 42464.3, 42466.1, 42466.2, and 42467 to, the Public Resources Code, relating to recycling, and making an appropriation therefor.

[Approved by Governor September 16, 2022. Filed with Secretary of State September 16, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1215, Newman. Electronic Waste Recycling Act of 2003: covered battery-embedded products.

(1) The Electronic Waste Recycling Act of 2003 (act) requires a retailer selling a covered electronic device in this state to collect from a consumer at the time of retail sale a covered electronic waste recycling fee, as specified. The act defines "covered electronic device" to mean a video display device containing a screen greater than 4 inches, measured diagonally, that is identified in the regulations adopted by the Department of Toxic Substances Control (DTSC), subject to certain exclusions. The act requires all fees collected pursuant to the act to be deposited in the Electronic Waste Recovery and Recycling Account, and outlines certain other requirements related to the establishment, adjustment, and administration of the fee. Moneys in the account are continuously appropriated for specified purposes, including, but not limited to, paying covered electronic waste recycling fee refunds and making electronic waste recovery and recycling payments. Moneys in the account may be expended, upon appropriation by the Legislature in the annual Budget Act, for other specified purposes, including the administration of the act by the Department of Resources Recycling and Recovery (CalRecycle) and DTSC and to provide funding to DTSC to implement and enforce the hazardous waste control laws as they relate to covered electronic devices.

Existing law incorporates the requirements and other provisions of the act by reference as requirements and provisions of the hazardous waste control laws. The act also expressly authorizes DTSC to enforce the act, and all regulations adopted pursuant to the act, through the hazardous waste control laws. A violation of the hazardous waste control laws is a crime.

This bill would, among other things, expand the definition of "covered electronic device" to include a "covered battery-embedded product," as defined, thereby expanding the scope of the act to include covered battery-embedded products, as provided. The bill would require a consumer, on and after January 1, 2026, to pay a covered battery-embedded waste recycling fee in an amount established by CalRecycle upon the purchase of a new or refurbished covered battery-embedded product. The bill would authorize, beginning on August 1, 2028, CalRecycle, in collaboration with DTSC, to establish more than one covered electronic waste recycling fee for covered battery-embedded products based on categories of those products. The bill would also require, on or before October 1, 2025, and on or before October 1 each year thereafter, CalRecycle to establish a covered electronic

waste recycling fee based on the reasonable regulatory costs to administer covered electronic waste recycling. The bill would require the charge to be imposed upon the purchase of a new or refurbished covered battery-embedded product. The bill would also require the charge to be adjusted annually based on the California Consumer Price Index. The bill would require CalRecycle, on or before August 1, 2027, and thereafter as specified, in collaboration with DTSC, to review, at a public hearing, the covered battery-embedded waste recycling fee applicable to covered battery-embedded products and to make any fair and reasonable adjustments to the charge to ensure that there are sufficient revenues in the Covered Battery-Embedded Waste Recycling Fee Subaccount to fund the covered electronic waste recycling program established pursuant to the act. The bill would create the Covered Electronic Waste Recycling Fee Subaccount and the Covered Battery-Embedded Waste Recycling Fee Subaccount as continuously appropriated funds in the Electronic Waste Recovery and Recycling Account. Because the funds deposited to the Covered Battery-Embedded Waste Recycling Fee Subaccount would be a new source of funds in the continuously appropriated subaccount within the continuously appropriated Electronic Waste Recovery and Recycling Account, the bill would make an appropriation. By expanding the scope of the act to make it applicable to covered battery-embedded products, the bill would expand the scope of a crime, thereby imposing a state-mandated local program.

The act imposes certain obligations on a manufacturer of a covered electronic device sold in the state, including, but not limited to, requiring a manufacturer to submit a report to CalRecycle, as provided, and to make information available to consumers that describes where and how to return, recycle, and dispose of the covered electronic device. The act defines "manufacturer" as either a person who manufactures a covered electronic device sold in the state or a person who sells a covered electronic device in the state under that person's brand name.

This bill would revise and expand the definition of "manufacturer" for purposes of the act and would therefore extend the aforementioned obligations to these persons. The act would require a manufacturer of a covered battery-embedded product to also submit a report to CalRecycle, as provided, and to make certain information available to consumers. The bill would provide that any information submitted to CalRecycle that is proprietary in nature or a trade secret shall be protected under state laws and regulations governing that information. The bill would require a manufacturer of a covered electronic device to maintain and keep accessible for a minimum of 3 years all records required to be kept or submitted pursuant to the act and, upon request, provide those records to CalRecycle. This bill would require all reports and records provided to CalRecycle pursuant to the act to be provided under penalty of perjury. By expanding the scope of persons subject to the act's requirements and by expanding the scope of the crime of perjury, the bill would expand the scope of a crime, thereby imposing a state-mandated local program.

The act prohibits a person from selling a new or refurbished covered electronic device to a consumer if CalRecycle or DTSC determines that the manufacturer of that covered electronic device is not in compliance with the act, as provided. The act prohibits a person from selling or offering for sale in this state a new or refurbished covered electronic device unless the device is labeled with the name of the manufacturer or the manufacturer's brand label, so that it is readily visible.

This bill, by expanding the definition of "covered electronic device," would expand the sales prohibition for noncompliance to covered battery-embedded products. The bill would also prohibit a person, on or after January 1, 2026, from selling or offering for sale in the state a new or refurbished covered battery-embedded product unless the product is labeled with the name of the manufacturer or the manufacturer's brand label so that it is readily visible. The bill would also require a new or refurbished covered battery-embedded product to be labeled with information identifying the chemistry of the embedded product. By expanding the scope of the sales prohibitions to include covered battery-embedded products, the bill would expand the scope of a crime, thereby imposing a state-mandated local program.

The bill would also replace references to the State Board of Equalization with the California Department of Tax and Fee Administration, and make other nonsubstantive changes.

(2) Existing law, as part of the hazardous waste control laws, requires the department to adopt regulations to identify electronic devices, as defined, that the department determines are presumed to be, when discarded, a hazardous waste. Existing law requires a manufacturer of an electronic device that is identified in those regulations to send to any retailer that sells that electronic device a notice that identifies the electronic device and informs the retailer that the electronic device is subject to the covered electronic waste recycling fee. The act requires a manufacturer of a covered electronic device to comply with these hazardous waste control law notification requirements. Existing law defines the term "manufacturer" for the purposes of these provisions in the same way as the act.

This bill, for purposes of the aforementioned notification requirement, would specify that the requirement applies only to video display devices, as defined by the act, and would expressly exclude from the notification requirement a covered battery-embedded product, as defined by the act. The bill would expand the definition of "manufacturer" in the act and thereby would make those additional persons subject to the notice requirement. By expanding the scope of a crime under the hazardous waste control laws, the bill would impose a state-mandated local program. The bill would also replace references to the State Board of Equalization with the California Department of Tax and Fee Administration, and make other nonsubstantive changes.

This bill would require instead that, as part of the act, a manufacturer of a covered battery-embedded product comply with similar notification requirements.

(3) The California Integrated Waste Management Act of 1989 requires the county or regional agency integrated waste management plan that a county or regional agency is required to submit to the board to contain a household hazardous waste element. Existing law requires that when a county or regional agency revises the county or regional integrated waste management plan and its elements, the city household hazardous waste element and county household hazardous waste element is required to identify those actions the city, county, or regional agency is taking to promote the collection, consolidation, recovery, and recycling of covered electronic waste, as defined.

This bill would, as a result of the aforementioned amendments to the Electronic Waste Recycling Act of 2003, expand the definition of covered electronic waste pursuant to the act to include a covered battery-embedded product, as defined by the Electronic Waste Recycling Act of 2003, thereby creating a state-mandated local program by imposing new duties upon local agencies.

(4) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(5) The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25214.10 of the Health and Safety Code is amended to read:

25214.10. (a) For purposes of this section, "electronic device" has the same meaning as a "covered electronic device," as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463 of the Public Resources Code. "Covered electronic device" does not include a covered battery-embedded product, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463 of the Public Resources Code.

(b) The department shall adopt regulations, in accordance with this section, that prohibit an electronic device from being sold or offered for sale in this state if the electronic device is prohibited from being sold or offered for sale in the European Union on and after its date of manufacture, to the extent that Directive 2002/95/EC, adopted by the European Parliament and the Council of the European Union on January 27, 2003, and as amended thereafter by the Commission of European Communities, prohibits that sale due to the presence of certain heavy metals.

(c) The regulations adopted pursuant to subdivision (b) shall take effect January 1, 2007, or on or after the date Directive 2002/95/EC, adopted by the European Parliament and the Council of the European Union on January 27, 2003, takes effect, whichever date is later.

(d) The department shall exclude, from the regulations adopted pursuant to this section, the sale of an electronic device that contains a substance that is used to comply with the consumer, health, or safety requirements that are required by the Underwriters Laboratories, the federal government, or the state.

(e) In adopting regulations pursuant to this section, the department shall not require the manufacture or sale of an electronic device that is different than, or otherwise not prohibited by, the European Union under Directive 2002/95/EC, adopted by the European Parliament and the Council of the European Union on January 27, 2003.

(f) (1) The department shall not adopt any regulations pursuant to this section that impose any requirements or conditions that are in addition to, or more stringent than, the requirements and conditions expressly authorized by this section.

(2) In complying with this subdivision, the department shall use, in addition to any other information deemed relevant by the department, the published decisions of the Technical Adaptation Committee and European Union member states that interpret the requirements of Directive 2002/95/EC.

SEC. 2. Section 25214.10.1 of the Health and Safety Code is amended to read:

25214.10.1. (a) For purposes of this section, the following definitions shall apply:

(1) "Electronic device" means a video display device, as defined in Section 42463 of the Public Resources Code, with a screen size of greater than four inches.

(2) "Covered electronic device" has the same meaning as a covered electronic device, as defined in paragraph (1) of subdivision (g) of Section 42463 of the Public Resources Code.

(3) "Manufacturer" and "retailer" have the same meaning as set forth in Section 42463 of the Public Resources Code.

(b) Notwithstanding the definition of "covered electronic device" in paragraph (2) of subdivision (a), the obligations of the department established in subdivisions (c) to (f), inclusive, apply only to covered electronic devices specified in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463 of the Public Resources Code.

(c) The department shall adopt regulations that identify electronic devices that the department determines are presumed to be, when discarded, a hazardous waste pursuant to this chapter.

(d) (1) Except as provided in subdivision (f), a manufacturer of an electronic device that is identified in the regulations adopted by the department shall send a notice in accordance with the schedule specified in subparagraph (A) or (B), as applicable, of paragraph (2) to any retailer that sells that electronic device manufactured by the manufacturer. The notice shall identify the electronic device, and shall inform the retailer that the electronic device is a covered electronic device and is subject to a fee in accordance with subdivision (e).

(2) The notice required by this subdivision shall be sent in accordance with the following schedule:

(A) On or before October 1, 2004, the manufacturer shall send a notice covering any electronic device manufactured by that manufacturer that is identified in the regulations adopted by the department on or before July 1, 2004, that identify the electronic devices that the department determines are presumed to be, when discarded, a hazardous waste pursuant to this chapter.

(B) On or before April 1, 2005, and on or before every April 1 of each year thereafter, the manufacturer shall send a notice covering any electronic device manufactured by that manufacturer identified in the regulations adopted by the department pursuant to subdivision (c) on or before December 31 of the prior year.

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

(e) (1) Except as provided in subdivision (f), a covered electronic device that is identified in the regulations adopted, on or before July 1, 2004, by the department, that identify electronic devices that the department determines are presumed to be, when discarded, a hazardous waste pursuant to this chapter shall, on and after January 1, 2005, be subject to Chapter 8.5 (commencing with Section 42460) of Part 3 of Division 30 of the Public Resources Code, including the covered electronic waste recycling fee imposed pursuant to Section 42464 of the Public Resources Code.

(2) Except as provided in subdivision (f), a covered electronic device identified in the regulations adopted by the department, pursuant to subdivision (c), shall, on and after July 1 of the year subsequent to the year in which the covered electronic device is first identified in the regulations, be subject to Chapter 8.5 (commencing with Section 42460) of Part 3 of Division 30 of the Public Resources Code, including the covered electronic waste recycling fee imposed pursuant to Section 42464 of the Public Resources Code.

(f) (1) If the manufacturer of an electronic device that is identified in the regulations adopted by the department pursuant to subdivision (c) obtains the department's concurrence that an electronic device, when discarded, would not be a hazardous waste, in accordance with procedures set forth in Section 66260.200 of Title 22 of the California Code of Regulations, the electronic device shall cease to be a covered electronic device and shall cease to be subject to subdivisions (d) and (e) on the first day of the quarter that begins not less than 30 days after the date that the department provides the manufacturer with a written nonhazardous concurrence for the electronic device pursuant to this subdivision. A manufacturer shall notify each retailer, to which that manufacturer has sold a covered electronic device, that the device has been determined pursuant to this subdivision to be nonhazardous and is no longer subject to a covered electronic waste recycling fee.

(2) No later than 10 days after the date that the department issues a written nonhazardous concurrence to the manufacturer, the department shall do both of the following:

(A) Post on the department's internet website a copy of the nonhazardous concurrence, including, but not limited to, an identification and description of the electronic device to which the concurrence applies.

(B) Send a copy of the nonhazardous concurrence, including, but not limited to, an identification and description of the electronic device to which the concurrence applies, to the Department of Resources Recycling and Recovery and to the California Department of Tax and Fee Administration.

(g) Notwithstanding Section 42474 of the Public Resources Code, a fine or penalty shall not be assessed on a retailer who unknowingly sells, or offers for sale, in this state a covered electronic device for which the covered electronic waste recycling fee has not been collected or paid, if the failure to collect the fee was due to the failure of the California Department of Tax and Fee Administration to inform the retailer that the electronic device was subject to the fee.

SEC. 3. Section 41516 of the Public Resources Code is amended to read:

41516. (a) For purposes of this article, "covered electronic waste" has the same meaning as set forth in Section 42463.

(b) On and after January 1, 2004, when a county or regional agency revises the countywide or regional integrated waste management plan and its elements pursuant to Section 41770, the city household hazardous waste element and county household hazardous waste element in the plan shall identify those actions the city, county, or regional agency is taking to promote the collection, consolidation, recovery, and recycling of covered electronic waste.

SEC. 4. Section 42461 of the Public Resources Code is amended to read:

42461. The Legislature finds and declares all of the following:

(a) The purpose of this chapter is to enact a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of covered electronic devices, and to provide incentives to design electronic devices that are less toxic, more recyclable, and that use recycled materials.

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

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

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

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

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

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

(h) The purpose of the Electronic Waste Recycling Act of 2003 is to provide sufficient funding for the safe, cost-free, and convenient collection and recycling of 100 percent of the covered electronic waste initially discarded in the state, to eliminate electronic waste stockpiles and legacy devices by December 31, 2007, to end the illegal disposal of covered electronic devices, to establish manufacturer responsibility for reporting to the Department of Resources Recycling and Recovery on the manufacturer's efforts to phase out hazardous materials in electronic devices and increase the use of recycled materials, and to ensure that electronic devices sold in the state do not violate the regulations adopted by the Department of Toxic Substances Control pursuant to Section 25214.10 of the Health and Safety Code.

SEC. 5. Section 42463 of the Public Resources Code is amended to read:

42463. For purposes of this chapter, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) "Account" means the Electronic Waste Recovery and Recycling Account created in the Integrated Waste Management Fund pursuant to Section 42476.

(b) "Authorized collector" means any of the following:

(1) A city, county, or district that collects covered electronic devices.

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

(3) A nonprofit organization that collects or accepts covered electronic devices.

(4) A manufacturer or agent of the manufacturer that collects, consolidates, and transports covered electronic devices for recycling from consumers, businesses, institutions, and other generators.

(5) An entity that collects, handles, consolidates, and transports covered electronic devices and has filed applicable notifications with DTSC pursuant to Chapter 23 (commencing with Section 66273.1) of Division 4.5 of Title 22 of the California Code of Regulations.

(c) "CalRecycle" means the Department of Resources Recycling and Recovery."

(d) "CDTFA" means the California Department of Tax and Fee Administration.

(e) "Consumer" means a person who purchases a new or refurbished covered electronic device in a transaction that is a retail sale or in a transaction to which a use tax applies pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(f) (1) "Covered battery-embedded product" means a product containing a battery from which the battery is not designed to be easily removed from the product by the user of the product with no more than commonly used household tools.

(2) "Covered battery-embedded product" does not include any of the following:

(A) A medical device, as defined in Section 321(h) of Title 21 of the United States Code, if either of the following applies:

(i) It is a Class I device as defined in Section 360c of Title 21 of the United States Code, and either of the following applies:

(I) It is a device described in Section 414.202 of Title 42 of the Code of Federal Regulations.

(II) Either of the following applies:

(ia) The device is predominantly used in a health care setting by a provider.

(ib) The device is predominantly prescribed by a health care provider.

(ii) It is a Class II or Class III device as defined in 360c of Title 21 of the United States Code.

(B) A covered electronic device, as defined in subparagraph (A) of paragraph (1) of subdivision (g).

(C) An energy storage system, as defined in subdivision (a) of Section 2835 of the Public Utilities Code.

(D) An electronic nicotine delivery system, as defined in Section 375(7) of Title 15 of the United States Code.

(3) CalRecycle may consult with other state agencies to determine if a product meets the definition of a covered battery-embedded product.

(4) "Covered battery-embedded waste recycling fee" means the fee imposed for covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) pursuant to Article 3 (commencing with Section 42464).

(g) (1) "Covered electronic device" means either of the following:

(A) Except as provided in paragraph (2), a video display device containing a screen greater than four inches, measured diagonally, that is identified in the regulations adopted by DTSC pursuant to subdivision (c) of Section 25214.10.1 of the Health and Safety Code.

(B) Any covered battery-embedded product, as defined in subdivision (f).

(2) "Covered electronic device," as defined in subparagraph (A) of paragraph (1), does not include any of the following:

(A) A video display device that is a part of a motor vehicle, as defined in Section 415 of the Vehicle Code, or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

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

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

(D) An electronic device, on and after the date that it ceases to be a covered electronic device pursuant to subdivision (f) of Section 25214.10.1 of the Health and Safety Code.

(h) "Covered electronic waste" or "covered e-waste" means a covered electronic device that is discarded.

(i) "Covered electronic waste recycling fee" or "covered e-waste recycling fee" means the fee imposed for covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) pursuant to Article 3 (commencing with Section 42464).

(j) "Covered electronic waste recycler" or "covered e-waste recycler" means any of the following:

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

(2) A person who changes the physical or chemical composition of a covered electronic device, in accordance with the requirements of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code and the regulations adopted pursuant to that chapter, by deconstructing, size reduction, crushing, cutting, sawing, compacting, shredding, or refining for purposes of segregating components, for purposes of recovering or recycling those components, and who arranges for the transport of those components to an end user.

(3) A manufacturer who meets any conditions established by this chapter and Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code for the collection or recycling of covered electronic waste.

(k) "Director" means the Director of Resources Recycling and Recovery.

(l) "Discarded" has the same meaning as set forth in subdivision (b) of Section 25124 of the Health and Safety Code.

(m) "DTSC" means the Department of Toxic Substances Control.

(n) "Electronic waste recovery payment" means an amount established and paid by CalRecycle pursuant to Section 42477.

(o) "Electronic waste recycling payment" means an amount established and paid by CalRecycle pursuant to Section 42478.

(p) "Hazardous material" has the same meaning as set forth in Section 25501 of the Health and Safety Code.

(q) (1) (A) "Manufacturer" means a person who manufactures a covered electronic device and who owns or is the exclusive licensee of the brand or trademark under which the covered electronic device is sold, offered for sale, or distributed in the state.

(B) If there is no person in the state who is the manufacturer for purposes of subparagraph (A), the manufacturer of the covered electronic device is the owner or licensee of a brand or trademark under which a covered electronic device is sold, offered for sale, or distributed in the state.

(C) If there is no person in the state who is the manufacturer for purposes of subparagraph (A) or (B), the manufacturer of the covered electronic device is the person who sells, offers for sale, or distributes the covered electronic device into the state for sale, offer for sale, or distribution in the state.

(2) For purposes of this chapter, the sale of a covered electronic device shall be deemed to occur in the state if the covered electronic device is delivered to the purchaser in the state.

(r) "Person" means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government corporation, partnership, limited liability company, and association. Notwithstanding Section 40170, "person" also includes a city, county, city and county, district, commission, the state or a department, agency, or political subdivision thereof, an interstate body, and the United States and its agencies and instrumentalities to the extent permitted by law.

(s) "Recycling" has the same meaning as set forth in subdivision (a) of Section 25121.1 of the Health and Safety Code.

(t) "Refurbished," when used to describe a covered electronic device, means a device that the manufacturer has tested and returned to a condition that meets factory specifications for the device, has repackaged, and has labeled as refurbished.

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

(v) (1) "Retail sale" has the same meaning as set forth in Section 6007 of the Revenue and Taxation Code.

(2) "Retail sale" does not include the sale of a covered electronic device that is temporarily stored or used in the state for the sole purpose of preparing the covered electronic device for use thereafter solely outside the state, and that is subsequently transported outside the state and thereafter used solely outside the state.

(w) "Vendor" means a person that makes a sale of a covered electronic device for the purpose of resale to a retailer who is the lessor of the covered electronic device to a consumer under a lease that is a continuing sale and purchase pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

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

SEC. 6. The heading of Article 3 (commencing with Section 42464) of Chapter 8.5 of Part 3 of Division 30 of the Public Resources Code is amended to read:

Article 3. Covered Electronic Waste Recycling Fees and Covered Battery-Embedded Waste Recycling Fees

SEC. 7. Section 42464 of the Public Resources Code is amended to read:

42464. (a) On and after January 1, 2005, or as otherwise provided by Section 25214.10.1 of the Health and Safety Code, a consumer shall pay a covered electronic waste recycling fee upon the purchase of a new or refurbished covered electronic device, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463 in the following amounts:

(1) Six dollars (\$6) for each covered electronic device, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, with a screen size of less than 15 inches measured diagonally.

(2) Eight dollars (\$8) for each covered electronic device, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.

(3) Ten dollars (\$10) for each covered electronic device, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, with a screen size greater than or equal to 35 inches measured diagonally.

(b) (1) On and after January 1, 2026, a consumer shall pay a covered battery-embedded waste recycling fee in an amount determined by CalRecycle pursuant to paragraph (3) upon the purchase of a new or refurbished covered electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463.

(2) Beginning on August 1, 2028, CalRecycle, in collaboration with DTSC, may establish more than one covered electronic waste recycling fee for covered battery-embedded waste recycling fee for covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, based on categories of covered battery-embedded products, as determined by CalRecycle in collaboration with DTSC.

(3) On or before October 1, 2025, and on or before October 1 each year thereafter, CalRecycle shall establish a covered electronic waste recycling fee based on the reasonable regulatory costs to administer covered electronic waste recycling. The fee shall be imposed upon the purchase of a new or refurbished covered electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463. The fee shall go into effect on January 1 of each calendar year after the fee is adopted. The maximum fee shall be adjusted annually based on the California Consumer Price Index as compiled and reported by the Department of Industrial Relations.

(c) Except as provided in subdivision (e), a retailer shall collect from the consumer a covered electronic waste recycling fee or covered battery-embedded waste recycling fee, as applicable, at the time of the retail sale of a covered electronic device.

(d) (1) A retailer may retain 3 percent of the covered electronic waste recycling fee or covered battery-embedded waste recycling fee, as applicable, as reimbursement for all costs associated with collecting the fee and shall transmit the remainder of the fee to

the state pursuant to Section 42464.4.

(2) If a retailer makes an election pursuant to paragraph (2) of subdivision (e), and the conditions of subparagraphs (A), (B), and (C) of paragraph (2) of subdivision (e) are met, the vendor, in lieu of the retailer, may retain 3 percent of the covered electronic waste recycling fee or covered battery-embedded waste recycling fee, as applicable, as reimbursement for all costs associated with collecting the fee and the vendor shall transmit the remainder of the fee to the state pursuant to Section 42464.4.

(e) (1) If a retailer elects to pay the covered electronic waste recycling fee or covered battery-embedded waste recycling fee, as applicable, on behalf of the consumer, the retailer shall provide an express statement to that effect on the receipt given to the consumer at the time of sale. If a retailer elects to pay the covered electronic waste recycling fee on behalf of the consumer, the fee is a debt owed by the retailer to the state, and the consumer is not liable for the fee.

(2) A retailer may elect to pay the covered electronic waste recycling fee or covered battery-embedded waste recycling fee, as applicable, on behalf of the consumer by paying the covered electronic waste recycling fee or covered battery-embedded waste recycling fee, as applicable, to the retailer's vendor, but only if all of the following conditions are met:

(A) The vendor is registered with CDTFA to collect and remit the covered electronic waste recycling fee or covered battery-embedded waste recycling fee, as applicable, pursuant to this chapter.

(B) The vendor holds a valid seller's permit pursuant to Article 2 (commencing with Section 6066) of Chapter 2 of Part 1 of Division 2 of the Revenue and Taxation Code.

(C) The retailer pays the covered electronic waste recycling fee or covered battery-embedded waste recycling fee, as applicable, to the vendor that is separately stated on the vendor's invoice to the retailer.

(D) The retailer provides an express statement on the invoice, contract, or other record documenting the sale that is given to the consumer, that the covered electronic waste recycling fee or covered battery-embedded waste recycling fee, as applicable, has been paid on behalf of the consumer.

(3) For the purpose of making the election in paragraph (2), if the conditions set forth in subparagraphs (A), (B), (C), and (D) of paragraph (2), are met, the covered electronic waste recycling fee or covered battery-embedded waste recycling fee, as applicable, is a debt owed by the vendor to the state, and the retailer is not liable for the fee.

(f) The retailer shall separately state the covered electronic waste recycling fee or covered battery-embedded waste recycling fee, as applicable, on the receipt given to the consumer at the time of sale.

(g) On or before August 1, 2005, and, thereafter, no more frequently than annually, and no less frequently than biennially, CalRecycle, in collaboration with DTSC, shall review, at a public hearing, the covered electronic waste recycling fee outlined in subdivision (a) and shall make any adjustments to the fee to ensure that there are sufficient revenues in the Covered Electronic Waste Recycling Fee Subaccount to fund the covered electronic waste recycling program, as related to covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463 and the resulting covered e-waste, established pursuant to this chapter. Adjustments to the fee that are made on or before August 1, shall apply to the calendar year beginning the following January 1. CalRecycle shall base an adjustment of the covered electronic waste recycling fees on both of the following factors:

(1) The sufficiency, and any surplus, of revenues in the Covered Electronic Waste Recycling Fee Subaccount to fund the collection, consolidation, and recycling of covered electronic waste resulting from covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, and the resulting covered e-waste, that is projected to be recycled in the state.

(2) The sufficiency of revenues in the Covered Electronic Waste Recycling Fee Subaccount for CalRecycle and DTSC to administer, enforce, and promote the program established pursuant to this chapter, as related to covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463 and the resulting covered e-waste, plus a prudent reserve not to exceed 5 percent of the amount in the Covered Electronic Waste Recycling Fee Subaccount.

(h) Following the setting of the covered battery-embedded waste recycling fee pursuant to paragraph (3) of subdivision (b), on or before August 1, 2027, and, thereafter, no more frequently than annually, and no less frequently than biennially, CalRecycle, in collaboration with DTSC, shall review, at a public hearing, the covered battery-embedded waste recycling fee outlined in subdivision (b) and shall make any fair and reasonable adjustments to the fee to ensure that there are sufficient revenues in the Covered Battery-Embedded Waste Recycling Fee Subaccount to fund the covered electronic waste recycling program established pursuant to this chapter related to covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, and the resulting covered e-waste. Adjustments to the fee that are made on or before August 1,

shall apply to the calendar year beginning the following January 1. CalRecycle shall base an adjustment of the covered battery-embedded waste recycling fees on both of the following factors:

(1) The sufficiency, and any surplus, of revenues in the Covered Battery-Embedded Waste Recycling Fee Subaccount to fund the collection, consolidation, and recycling of covered electronic waste resulting from discarded covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, that is projected to be recycled in the state.

(2) The sufficiency of revenues in the Covered Battery-Embedded Waste Recycling Fee Subaccount for CalRecycle and DTSC to administer, enforce, and promote the program established pursuant to this chapter, related to covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, and the resulting covered e-waste, plus a prudent reserve not to exceed 5 percent of the amount in the Covered Battery-Embedded Waste Recycling Fee Subaccount.

SEC. 8. Section 42464.2 of the Public Resources Code is amended to read:

42464.2. CDTFA shall collect the covered electronic waste recycling fee and the covered battery-embedded waste recycling fee pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code). For purposes of this section, the reference in the Fee Collection Procedures Law to “feepayer” shall include a retailer, a consumer, and a vendor, in the case of a retailer’s election pursuant to paragraph (2) of subdivision (e) of Section 42464.

SEC. 9. Section 42464.3 is added to the Public Resources Code, to read:

42464.3. CalRecycle and DTSC may share information provided pursuant to this article with CDTFA, upon request, as necessary to administer and enforce the covered electronic waste recycling fee imposed under this article.

SEC. 10. Section 42464.4 of the Public Resources Code is amended to read:

42464.4. (a) The covered electronic waste recycling fee and the covered battery-embedded waste recycling fee shall be due and payable quarterly on or before the last day of the month following each calendar quarter. The payments shall be accompanied by a return filed using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by CDTFA.

(b) CDTFA may require the payment of the fee and the filing of returns for other than quarterly periods.

SEC. 11. Section 42464.6 of the Public Resources Code is amended to read:

42464.6. (a) CDTFA shall not accept or consider a petition for redetermination of fees determined under this chapter if the petition is founded upon the grounds that an item is or is not a covered electronic device, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463. CDTFA shall forward to DTSC any appeal of a determination that is based on the grounds that an item is or is not a covered electronic device, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463. CDTFA shall forward to CalRecycle any appeal of a determination that is based on the grounds that an item is or is not a covered electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463.

(b) CDTFA shall not accept or consider a claim for refund of fees paid pursuant to this chapter if the claim is founded upon the grounds that an item is or is not a covered electronic device. CDTFA shall forward to DTSC any claim for refund that is based on the grounds that an item is or is not a covered electronic device, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463. CDTFA shall forward to CalRecycle any claim for refund that is based on the grounds that an item is or is not a covered electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463.

SEC. 12. Section 42464.8 of the Public Resources Code is amended to read:

42464.8. Notwithstanding Section 55381 of the Revenue and Taxation Code, CDTFA may disclose the name, address, account number, and account status of a person registered with CDTFA to collect and remit the covered electronic waste recycling fee or the covered battery-embedded waste recycling fee.

SEC. 13. Section 42465 of the Public Resources Code is amended to read:

42465. On and after the date specified in subdivision (a) and paragraph (1) of subdivision (b) of Section 42464, a person shall not sell a new or refurbished covered electronic device to a consumer in this state if CalRecycle or DTSC determines that the manufacturer of that covered electronic device is not in compliance with this chapter or as provided otherwise by Section 25214.10.1 of the Health and Safety Code.

SEC. 14. Section 42465.1 of the Public Resources Code is amended to read:

42465.1. On and after January 1, 2005, or as specified otherwise in Section 25214.10.1 of the Health and Safety Code, a person shall not sell or offer for sale in this state a new or refurbished covered electronic device, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, unless the device is labeled with the name of the manufacturer or the manufacturer's brand label so that it is readily visible.

SEC. 15. Section 42465.2 of the Public Resources Code is amended to read:

42465.2. (a) On or before July 1, 2005, or as specified otherwise in Section 25214.10.1 of the Health and Safety Code, and at least once annually thereafter as determined by CalRecycle, each manufacturer of a covered electronic device, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, sold in this state shall do all of the following:

(1) Submit to CalRecycle a report that includes all of the following information:

(A) An estimate of the number of covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, sold by the manufacturer in the state during the previous year.

(B) A baseline or set of baselines that show the total estimated amounts of mercury, cadmium, lead, hexavalent chromium, and polybrominated biphenyls (PBBs) used in covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, manufactured by the manufacturer in that year and the reduction in the use of those hazardous materials from the previous year.

(C) A baseline or set of baselines that show the total estimated amount of recycled materials contained in covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, sold by the manufacturer in that year and the increase in the use of those recycled materials from the previous year.

(D) A baseline or a set of baselines that describe any efforts to design covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, for recycling and goals and plans for further increasing design for recycling.

(E) A list of those retailers, including, but not limited to, Internet and catalog retailers, to which the manufacturer provided a notice in the prior 12 months pursuant to Section 42465.3 and subdivision (d) of Section 25214.10.1 of the Health and Safety Code.

(2) Make information available to consumers that describes where and how to return, recycle, and dispose of the covered electronic waste resulting from discarded electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, and opportunities and locations for the collection or return of the device, through the use of a toll-free telephone number, internet website, information labeled on the device, information included in the packaging, or information accompanying the sale of the covered electronic device, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463.

(b) (1) For purposes of complying with paragraph (1) of subdivision (a), a manufacturer may submit a report to CalRecycle that includes only those covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, that include applications of the compounds listed in subparagraph (B) of paragraph (1) of subdivision (a) that are exempt from the Directive 2002/95/EC adopted by the European Parliament and the Council of the European Union on January 27, 2003, and any amendments made to that directive, if both of the following conditions are met, as modified by Section 24214.10 of the Health and Safety Code:

(A) The manufacturer submits written verification to DTSC that demonstrates, to DTSC's satisfaction, that the manufacturer is in compliance with Directive 2002/95/EC, and any amendments to that directive, for those covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, for which it is not submitting a report to CalRecycle pursuant to this subdivision.

(B) DTSC certifies that the manufacturer is in compliance with Directive 2002/95/EC, and any amendments to that directive, for those covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, for which the manufacturer is not submitting a report to CalRecycle pursuant to this subdivision.

(2) When reporting pursuant to this subdivision, a manufacturer is required only to report on specific applications of compounds used in covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, that are exempt from Directive 2002/95/EC.

(c) Any information submitted to CalRecycle pursuant to subdivision (a) that is proprietary in nature or a trade secret shall be subject to protection under state laws and regulations governing that information.

SEC. 16. Section 42465.3 of the Public Resources Code is amended to read:

42465.3. A manufacturer of a covered electronic device, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, shall comply with the notification requirements of subdivision (d) of Section 25214.10.1 of the Health and Safety Code.

SEC. 17. Section 42466.1 is added to the Public Resources Code, to read:

42466.1. (a) On and after January 1, 2026, a person shall not sell or offer for sale in this state a new or refurbished covered electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, unless the item is labeled with the name of the manufacturer or the manufacturer's brand label so that it is readily visible.

(b) A new or refurbished covered electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, battery-embedded product shall either be labeled with information identifying the chemistry of the battery contained within the covered electronic devices sold by the manufacturer or include that information on the manufacturer's internet website.

SEC. 18. Section 42466.2 is added to the Public Resources Code, to read:

42466.2. (a) A manufacturer of a "covered electronic device," as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, shall send a notice in accordance with the schedule specified in paragraph (1) or (2), as applicable, of subdivision (c), to any retailer that sells that covered electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, manufactured by the manufacturer. The notice shall identify the covered electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, by brand and model number, and shall inform the retailer that the electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, is a covered electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, and is subject to a covered battery-embedded waste recycling fee in accordance with subdivision (b) of Section 42464.

(b) A manufacturer subject to this subdivision shall also send copies of the notice to CalRecycle.

(c) The notice required by this subdivision shall be sent in accordance with the following schedule:

(1) On or before July 1, 2025, and every year thereafter, the manufacturer shall send a notice covering any covered electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, manufactured by that manufacturer that is subject to this chapter.

(2) On or before July 1, 2025, and every year thereafter, the manufacturer shall send a notice covering any product manufactured by that manufacturer that is exempt from the covered battery-embedded product definition, pursuant to paragraph (2) of subdivision (g) of Section 42463.

SEC. 19. Section 42467 is added to the Public Resources Code, to read:

42467. (a) On or before July 1, 2027, and at least once annually thereafter, each manufacturer of a covered electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, sold in this state shall do both of the following:

(1) Submit to CalRecycle a report that includes all of the following information:

(A) An estimate of the number of covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, sold by the manufacturer in the state during the previous year.

(B) The chemistry of the battery contained within the covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, sold by the manufacturer.

(C) A baseline or set of baselines that show the total estimated amount of recycled materials contained in covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, sold by the manufacturer in that year and the increase in the use of those recycled materials from the previous year.

(D) A list of those retailers, including, but not limited to, internet and catalog retailers, to which the manufacturer provided a notice in the prior 12 months pursuant to Section 42466.2.

(2) Make information available to consumers that describes where and how to return, recycle, and dispose of the covered electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, and opportunities and

locations for the collection or return of the device, through the use of a toll-free telephone number, internet website, information labeled on the device, information included in the packaging, or information accompanying the sale of the covered electronic device, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463.

(b) Any information submitted to CalRecycle pursuant to subdivision (a) that is proprietary in nature or a trade secret shall be subject to protection under state laws and regulations governing that information.

SEC. 20. Section 42474 of the Public Resources Code is amended to read:

42474. (a) Civil liability in an amount of up to two thousand five hundred dollars (\$2,500) per offense may be administratively imposed by CalRecycle for each sale of a covered electronic device for which a covered electronic waste recycling fee or covered battery-embedded waste recycling fee, as applicable, has not been paid pursuant to Section 42464.

(b) A civil penalty in an amount of up to five thousand dollars (\$5,000) per offense may be imposed by a superior court for each sale of a covered electronic device for which a covered electronic waste recycling fee or covered battery-embedded waste recycling fee, as applicable, has not been paid pursuant to Section 42464.

(c) Civil liability in an amount of up to twenty-five thousand dollars (\$25,000) may be administratively imposed by CalRecycle against manufacturers for failure to comply with this chapter, except as otherwise provided in subdivision (a).

(d) Civil liability in an amount of up to twenty-five thousand dollars (\$25,000) per violation may be administratively imposed by CalRecycle against a person, including an authorized collector or covered electronic waste recycler, that makes a false statement or representation in any document filed, submitted, maintained, or used for purposes of compliance with this chapter and associated regulations.

(e) (1) CalRecycle may revoke the approval or deny the renewal application of an authorized collector or covered electronic waste recycler that makes a false statement or representation in a document filed, submitted, maintained, or used for purposes of compliance with this chapter and the regulations adopted pursuant to this chapter.

(2) In addition to the authority specified in paragraph (1), CalRecycle may deny an application for approval or renewal from an authorized collector or covered electronic waste recycler that, or an individual identified in the application who, has a history demonstrating a pattern of operation in conflict with the requirements of this chapter and the regulations adopted pursuant to this chapter.

(3) (A) A person challenging a revocation, denial of application renewal, or application denial under this chapter, or an approved covered electronic waste recycler challenging the denial or adjustment of an electronic waste recovery payment or electronic waste recycling payment, shall first exhaust all administrative remedies by filing with CalRecycle a timely administrative appeal, in accordance with the regulations adopted to implement this chapter.

(B) The hearing shall be held before the director or the director's designee, who shall issue a written decision stating the factual and legal basis for this decision.

(f) (1) A manufacturer shall maintain and keep accessible all records required to be kept or submitted pursuant to this chapter for a minimum of three years.

(2) A manufacturer shall, upon request, provide CalRecycle with relevant records necessary to determine compliance with this chapter.

(g) All reports and records provided to CalRecycle pursuant to this chapter shall be provided under penalty of perjury.

SEC. 21. Section 42474.5 of the Public Resources Code is amended to read:

42474.5. Notwithstanding any other law, this chapter and all regulations adopted pursuant to this chapter may be enforced by DTSC pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

SEC. 22. Section 42475 of the Public Resources Code is amended to read:

42475. (a) CalRecycle shall administer and enforce this chapter in consultation with DTSC.

(b) CalRecycle and DTSC may adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that are necessary to implement this chapter, and any other regulations that CalRecycle and DTSC determines are necessary to implement the provisions of this chapter in a manner that is enforceable.

(c) CalRecycle shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to protect any proprietary information submitted to CalRecycle by a manufacturer of covered electronic devices.

(d) CalRecycle and DTSC may prepare, publish, or issue any materials that CalRecycle or DTSC determines to be necessary to disseminate information concerning CalRecycle's and DTSC's activities under this chapter.

(e) In carrying out this chapter, CalRecycle and DTSC may solicit and use any and all expertise available in other state agencies, including, but not limited to, the Department of Conservation and CDTFA.

SEC. 23. Section 42475.2 of the Public Resources Code is amended to read:

42475.2. (a) CalRecycle and DTSC may each adopt regulations to implement and enforce this chapter as emergency regulations.

(b) The emergency regulations adopted pursuant to this chapter shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by CalRecycle or DTSC pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by DTSC or CalRecycle, whichever occurs sooner.

SEC. 24. Section 42475.3 of the Public Resources Code is amended to read:

42475.3. CalRecycle, in collaboration with DTSC, shall convene a covered electronic waste working group comprised of representatives from manufacturers of covered electronic devices and other interested parties to develop and, by July 1, 2005, advise CalRecycle and the State and Consumer Services Agency on environmental purchasing criteria that may be used by state agencies to identify covered electronic devices with reduced environmental impacts. In defining criteria, the group shall consider the environmental impacts of products over their entire life cycle, as well as tradeoffs in other product attributes such as safety, product functionality, and cost. The group shall also consider any federal product evaluation or rating system, or market based system to promote the development and sale of environmentally conscious products.

SEC. 25. Section 42475.4 of the Public Resources Code is amended to read:

42475.4. (a) CalRecycle shall annually establish, and update as necessary, statewide recycling goals for covered electronic waste. In implementing this section, CalRecycle shall do all of the following:

- (1) Post on its internet website information on the amount of covered electronic devices sold in the state in the previous year as reported to CalRecycle.
- (2) Post on its internet website information on the amount of covered electronic waste recycled in the state in the previous year as reported to CalRecycle.
- (3) Develop and adopt recycling goals, with input from manufacturers, retailers, covered electronic waste recyclers, and collectors, that reflect projections of covered electronic device sales, rates of obsolescence, and stockpiles.

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

SEC. 26. Section 42476 of the Public Resources Code is amended to read:

42476. (a) The Electronic Waste Recovery and Recycling Account is hereby established in the Integrated Waste Management Fund. The Covered Electronic Waste Recycling Fee Subaccount and the Covered Battery-Embedded Waste Recycling Fee Subaccount are hereby created in the Electronic Waste Recovery and Recycling Account. All covered electronic waste recycling fees collected from sales of covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, shall be deposited into the Covered Electronic Waste Recycling Fee Subaccount. All covered battery-embedded waste recycling fees collected from sales of covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, shall be deposited into the Covered Battery-Embedded Waste Recycling Fee Subaccount.

- (1) Notwithstanding Section 13340 of the Government Code, the funds in the Covered Electronic Waste Recycling Fee Subaccount are hereby continuously appropriated, without regard to fiscal year, for the following purposes:

(A) To pay refunds of the covered electronic waste recycling fee imposed under Section 42464.

(B) To make electronic waste recovery payments to an authorized collector of covered electronic waste, resulting from discarded covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463 pursuant to Section 42479.

(C) To make electronic waste recycling payments to covered electronic waste recyclers, for recycling covered electronic waste resulting from discarded covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, pursuant to Section 42479.

(D) To make payments to manufacturers for covered electronic waste, resulting from discarded covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, pursuant to subdivision (h).

(2) Notwithstanding Section 13340 of the Government Code, the funds in the Covered Battery-Embedded Waste Recycling Fee Subaccount are hereby continuously appropriated, without regard to fiscal year, for the following purposes:

(A) To pay refunds of the covered battery-embedded waste recycling fee imposed under Section 42464.

(B) To make electronic waste recovery payments to an authorized collector of covered electronic waste resulting from discarded covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, pursuant to Section 42479.

(C) To make electronic waste recycling payments to covered electronic waste recyclers for recycling covered electronic waste resulting from discarded covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, pursuant to Section 42479.

(D) To make payments to manufacturers for covered electronic waste resulting from discarded covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, pursuant to subdivision (h).

(b) (1) The money in the Covered Electronic Waste Recycling Fee Subaccount may be expended for the following purposes only upon appropriation by the Legislature in the annual Budget Act:

(A) For the administration of this chapter by CalRecycle and DTSC, as related to covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, and covered electronic waste resulting from discarded covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463.

(B) To reimburse CDTFA for its administrative costs of registering, collecting, making refunds, and auditing retailers and consumers in connection with the covered electronic waste recycling fee imposed under Section 42464.

(C) To provide funding to DTSC to implement and enforce Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, as related to covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, as and as related to covered electronic waste, resulting from discarded covered electronic devices, defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, including any regulations adopted by DTSC pursuant to that chapter, as that chapter relates to covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, and as related to covered electronic waste, resulting from discarded covered electronic devices, defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463.

(D) To establish the public information program specified in subdivision (d), as it relates to covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, and as related to covered electronic waste, resulting from discarded covered electronic devices, defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463.

(E) For expenditure pursuant to paragraph (2) of subdivision (a) of, and paragraph (2) of subdivision (b) of, Section 17001.

(2) The money in the Covered Battery-Embedded Waste Recycling Fee Subaccount may be expended solely for the following purposes only upon appropriation by the Legislature in the annual Budget Act:

(A) For the administration of this chapter by CalRecycle and DTSC, as related to covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463 and covered electronic waste resulting from discarded covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463.

(B) To reimburse CDTFA for its administrative costs of registering, collecting, making refunds, and auditing retailers and consumers in connection with the covered battery-embedded waste recycling fee imposed under Section 42464.

(C) To provide funding to DTSC to implement and enforce Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, as it relates to covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, and as it relates to covered electronic waste resulting from discarded covered electronic devices, defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, including any regulations adopted by DTSC pursuant to that chapter, as that chapter relates to covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463 and covered electronic waste resulting from discarded covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463.

(D) To establish the public information program specified in subdivision (d), as it relates to covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, and as it relates to covered electronic waste resulting from covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463.

(3) Any fines or penalties collected pursuant to this chapter shall be deposited in the Electronic Waste Penalty Subaccount, which is hereby established in the account. The funds in the Electronic Waste Penalty Subaccount may be expended by CalRecycle or DTSC only upon appropriation by the Legislature.

(c) Notwithstanding Section 16475 of the Government Code, any interest earned upon funds in the Electronic Waste Recovery and Recycling Account shall be deposited in that account for expenditure pursuant to this chapter.

(d) Not more than 2 percent of the funds annually deposited in the Covered Electronic Waste Recovery Recycling Fee Subaccount and not more than 2 percent of the funds annually deposited in the Covered Battery-Embedded Waste Recycling Fee Subaccount shall be expended for purposes of establishing the public information program to educate the public in the hazards of improper covered electronic device storage and disposal and on the opportunities to recycle covered electronic devices.

(e) CalRecycle shall adopt regulations specifying cancellation methods for the recovery, processing, or recycling of covered electronic waste.

(f) CalRecycle may pay an electronic waste recycling payment or electronic waste recovery payment only for covered electronic waste that meets all of the following conditions:

(1) (A) The covered electronic waste is demonstrated to have been generated by a person who used the covered electronic device while located in this state.

(B) Covered electronic waste generated outside of the state and subsequently brought into the state is not eligible for payment.

(C) CalRecycle shall establish documentation requirements for purposes of this paragraph that are necessary to demonstrate that the covered electronic waste was generated in the state and eligible for payment.

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

(3) The manufacturer or the authorized collector or recycler of the electronic waste provides a cost-free and convenient opportunity to recycle electronic waste, in accordance with the legislative intent specified in subdivision (b) of Section 42461.

(4) If the covered electronic waste is processed, the covered electronic waste is processed in this state according to the cancellation method authorized by CalRecycle.

(g) The Legislature hereby declares that the state is a market participant in the business of the recycling of covered electronic waste for all of the following reasons:

(1) The covered electronic waste recycling fee or the covered battery-embedded waste recycling fee, as applicable, are collected from the state's consumers for covered electronic devices sold for use in the state.

(2) The purpose of the covered electronic waste recycling fee and the covered battery-embedded waste recycling fee and subsequent payments is to prevent damage to the public health and the environment from waste generated in the state.

(3) The recycling system funded by the covered electronic waste recycling fee and the covered battery-embedded waste recycling fee ensures that economically viable and sustainable markets are developed and supported for recovered materials and components in order to conserve resources and maximize business and employment opportunities within the state.

(h) (1) CalRecycle may make a payment to a manufacturer that takes back a covered electronic device from a consumer in this state for purposes of recycling the device at a processing facility. The amount of the payment made by CalRecycle shall equal the value of the covered electronic waste recycling fee or the covered battery-embedded waste recycling fee, as applicable, paid for

that device. To qualify for a payment pursuant to this subdivision, the manufacturer shall demonstrate both of the following to CalRecycle:

(A) The covered electronic device for which payment is claimed was used in this state.

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

(2) A covered electronic device for which a payment is made under this subdivision is not eligible for an electronic waste recovery payment or an electronic waste recycling payment under Section 42479.

SEC. 27. Section 42476.5 of the Public Resources Code is amended to read:

42476.5. A person who exports covered electronic waste, or a covered electronic device intended for recycling or disposal, to a foreign country, or to another state for ultimate export to a foreign country, shall do all of the following at least 60 days prior to export:

(a) Notify DTSC of the destination, disposition, contents, and volume of the waste, or device intended for recycling or disposal to be exported, and include with the notification the demonstrations required pursuant to subdivisions (b) to (e), inclusive.

(b) Demonstrate that the waste or device is being exported for purposes of recycling or disposal.

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

(d) Demonstrate that the exportation of the waste or device is conducted in accordance with applicable United States or applicable international law.

(e) (1) Demonstrate that the waste or device will be managed within the country of destination only at facilities whose operations meet or exceed the binding decisions and implementing guidelines of the Organization for Economic Cooperation and Development for the environmentally sound management of the waste or device being exported.

(2) The demonstration required by this subdivision applies to any country of destination, notwithstanding that the country is not a member of the Organization for Economic Cooperation and Development.

SEC. 28. Section 42477 of the Public Resources Code is amended to read:

42477. (a) On July 1, 2004, or as specified otherwise in Section 25214.10.1 of the Health and Safety Code, and on July 1 of each year thereafter, CalRecycle, in collaboration with DTSC, shall establish an electronic waste recovery payment schedule for covered electronic wastes generated in this state to cover the average net cost for an authorized collector to operate a free and convenient system for collecting, consolidating and transporting covered electronic wastes generated in this state.

(b) CalRecycle shall make the electronic waste recovery payments either directly to an authorized collector or to a covered electronic waste recycler for payment to an authorized collector pursuant to this article.

SEC. 29. Section 42478 of the Public Resources Code is amended to read:

42478. (a) (1) Except as provided in paragraph (2), on July 1, 2004, or as specified otherwise in Section 25214.10.1 of the Health and Safety Code, and on July 1 of each year thereafter, CalRecycle, in collaboration with DTSC, shall establish a covered electronic waste recycling payment schedule for covered electronic wastes generated in this state from discarded covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, to cover the average net cost for an electronic waste recycler to receive, process, and recycle each major category, as determined by CalRecycle, of covered electronic waste, resulting from discarded covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, received from an authorized collector. CalRecycle shall make the electronic waste recycling payments to a covered electronic waste recycler pursuant to this article.

(2) Until CalRecycle adopts a new payment schedule that covers the average net cost for an electronic waste recycler to receive, process, and recycle each major category, as determined by CalRecycle of covered electronic waste, resulting from discarded covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, received from an authorized collector, the amount of the covered electronic waste recycling payment shall be equal to twenty-eight cents (\$0.28) per pound of the total weight of covered electronic waste, resulting from discarded covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, received from an authorized collector and subsequently processed for recycling.

(b) (1) CalRecycle shall adopt regulations, effective January 1, 2025, to establish a process for covered electronic waste recyclers to submit payment claims for covered electronic waste resulting from discarded covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463.

(2) On April 1, 2026, CalRecycle shall begin accepting payment claims for covered electronic waste, resulting from discarded covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, collected on or after January 1, 2026.

(c) (1) Except as provided in paragraph (2), on July 1, 2028, and on July 1 every year thereafter, CalRecycle, in collaboration with DTSC, shall establish a covered electronic waste recycling payment schedule for covered electronic waste generated in this state, resulting from discarded covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, to cover the average net cost for an electronic waste recycler to receive, process, and recycle each major category, as determined by CalRecycle, of covered electronic waste, resulting from discarded covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, received from an authorized collector. CalRecycle shall make the electronic waste recycling payments to a covered electronic waste recycler pursuant to this article.

(2) Until CalRecycle adopts a new payment schedule that covers the average net cost for an electronic waste recycler to receive, process, and recycle each major category, as determined by CalRecycle, of covered electronic waste, resulting from discarded covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, received from an authorized collector, the amount of the covered electronic waste recycling payment shall be equal to \$0.75 per pound of the total weight of covered electronic waste, resulting from discarded covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, received from an authorized collector and subsequently processed for recycling.

SEC. 30. Section 42479 of the Public Resources Code is amended to read:

42479. (a) (1) For covered electronic waste, resulting from discarded covered electronic devices, as defined in subparagraph (A) of paragraph (1) of subdivision (g) of Section 42463, collected for recycling on and after January 1, 2005, and for covered electronic waste, resulting from discarded covered electronic devices, as defined in subparagraph (B) of paragraph (1) of subdivision (g) of Section 42463, collected for recycling on or after January 1, 2026, CalRecycle shall make electronic waste recovery payments and electronic waste recycling payments for the collection and recycling of covered e-waste to an authorized collector or covered e-waste recycler, respectively, upon completion of the review by CalRecycle of a payment claim submitted to CalRecycle by the authorized collector or e-waste recycler in the form and manner determined by CalRecycle. CalRecycle may examine a payment claim for a period of not more than 90 days from the date of receipt of the payment claim to validate the claim's completeness, accuracy, truthfulness, and compliance with applicable laws and regulations. All of the following shall be considered official records for purposes of Section 1280 of the Evidence Code:

(A) The results of a payment claim review or subsequent payment claim audit.

(B) Written information compiled by CalRecycle during a claim review or subsequent claim audit.

(2) To the extent authorized by Section 42477, a covered e-waste recycler shall make the electronic waste recovery payments to an authorized collector upon receipt of a completed and verified invoice submitted to the recycler by the authorized collector in the form and manner determined by CalRecycle.

(b) A covered e-waste recycler is eligible for a payment pursuant to this section only if the covered e-waste recycler meets all of the following requirements:

(1) The covered e-waste recycler is in compliance with applicable requirements of Article 6 (commencing with Section 66273.70) of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(2) The covered e-waste recycler demonstrates to CalRecycle that a facility utilized by the covered e-waste recycler for the handling, processing, refurbishment, or recycling of covered electronic devices meets all of the following standards:

(A) The facility has been inspected by DTSC within the past 12 months and had been found to be operating in conformance with all applicable laws, regulations, and ordinances.

(B) The facility is accessible during normal business hours for unannounced inspections by state or local agencies.

(C) The facility has health and safety, employee training, and environmental compliance plans and certifies compliance with the plans.

(D) The facility meets or exceeds the standards specified in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of, Division 4 (commencing with Section 3200) of, and Division 5 (commencing with Section 6300) of, the Labor Code or, if

all or part of the work is to be performed in another state, the equivalent requirements of that state.

(c) CalRecycle may conduct a selective audit of authorized collectors, covered e-waste recyclers, or manufacturers receiving payments from CalRecycle to determine whether electronic waste recovery payments, electronic waste recycling payments, or payments to manufacturers are being paid by CalRecycle according to the requirements of this chapter and the regulations adopted pursuant to this chapter. CalRecycle collect and recover from authorized collectors, covered e-waste recyclers, or manufacturers, with interest, any moneys improperly paid.

SEC. 31. Section 42485 of the Public Resources Code is amended to read:

42485. Except as provided in subdivision (b) of Section 42486, CalRecycle and DTSC shall not implement this chapter if either of the following occur:

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

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

(2) Provides revenues to the state to support the collection, recycling, and proper disposal of covered electronic waste, in an amount that is equal to, or greater than, the revenues that would be generated by the fee imposed under Section 42464.

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

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

SEC. 32. The Legislature finds and declares that this act, which adds Section 42467 to the Public Resources Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to appropriately protect the trade secrets and other proprietary materials of businesses, it is necessary to limit access to the proprietary information of manufacturers complying with the requirements of the Electronic Waste Recycling Act of 2003, as amended by this act.

SEC. 33. The Legislature finds and declares that recycling of covered electronic devices is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 4 to 31, inclusive, of this act amending the Electronic Waste Recycling Act of 2003 apply to all cities, including charter cities.

SEC. 34. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.