

TESTIMONY of the
CONSUMER TECHNOLOGY ASSOCIATION

SB 800
Changes to the Covered Device Recycling Act

Pennsylvania Senate Environmental Resources and Energy Committee

October 24, 2017

Chairman Yaw and members of the Committee, on behalf of the Consumer Technology Association™ (CTA), thank you for the opportunity to testify today on SB 800 and suggest improvements to Pennsylvania's Covered Device Recycling Act (CDRA). CTA has significant concerns with this legislation and strongly opposes it in its current form.

CTA is the trade association representing the U.S. consumer technology industry. CTA represents more than 2,200 companies – eighty percent are small businesses and startups; others are among the world's best known manufacturing and retail brands. For many years, CTA has supported and advanced electronics recycling as part of the industry's broader commitment to environmental sustainability.

According to the Pennsylvania Department of Environmental Protection (DEP), in 2015 Pennsylvania residents benefited from 62.3 million pounds of covered devices recycled by 61 manufacturers. Although the total amount of covered devices needing recycling services will continue to drop during the next decade, this represents a substantial cost to the electronics manufacturers – more than \$10 million annually. And this bill would likely double that cost.

Furthermore, in late summer 2016 CTA commissioned a study by Harrisburg University (HU) to survey Pennsylvania counties and municipalities about their involvement in collecting used electronics for recycling.¹ The survey asked local government officials about their history with electronics recycling,

¹ HU developed and distributed an electronic survey to all 67 counties in PA and asked them to forward the survey to municipalities that they knew of within their county who were also participating in electronics recycling under the Covered Device Recycling Act (CDRA). HU made follow up phone calls to counties who had indicated that they were collecting covered devices without recycling vendor commitment and those who had not been offered coverage by a recycler. Follow up contact was conducted for PA municipalities with greater than 10,000 residents in counties responding that they do not participate in electronics recycling under the CDRA or did not respond to the survey. HU also used Census Block Group data to show population count and density served by a 15-minute drive time to OEM sites.

their desire to be involved with collecting e-scrap, and their awareness of private collections in their jurisdictions. The study also mapped out collection locations within a 15 minute drive for residents by census block.

As visualized by the attached map, the study found that while most Pennsylvania residents do have access to electronics recycling opportunities within a 15 minute drive there are residents, particularly in central and northwest/north central ~~Pennsylvania, that~~ Pennsylvania, which do not. The study also found that counties are not stockpiling covered devices, and several counties do not want to collect these devices at all. Thus the current system is working for most, but not all residents.

CTA has been working with Sen. Alloway on this for almost a year and has agreed to help develop a fix to the issues in electronics recycling. This has led CTA to recommended changes to the CDRA specified in Appendix 1 of this written testimony. These suggestions were also included in the CTA August 25, 2017 letter to Senator Alloway (attached). However, CTA strongly opposes the changes to the CDRA proposed in SB ~~800, that~~ 800 that will not be good for the Commonwealth or its residents:

- Roughly double manufacturer compliance costs from \$10 million to \$20 million annually
- Expand DEP's authority well beyond their existing authority - basically to take over the electronics recycling system
- Remove the private sector from decisions about recycling quality and markets
- Forces collections into new areas, even where counties and municipalities have indicated they do not seek additional collection activity

CTA Analysis of SB 800

As detailed in CTA's August 25, 2017 letter, enactment of SB 800 would send a signal that Pennsylvania favors government-run state programs over private initiative – all at the expense of electronics manufacturers and retailers. This 48-page bill adds unnecessary complexity and would likely double the current cost for system implementation from \$10 million to \$20 million annually – at just the time when the volume of used electronics entering the recycling system begins a long-awaited decline. SB 800 would authorize a state takeover of the current hybrid collection/recycling system and empower an unelected environmental board to establish a new tax and set tax rates on a major manufacturing industry. It also creates a fee on the sale of new electronics, but the proceeds wouldn't go directly to recycling but rather would be directed to DEP to oversee and administer this new government entitlement program.

Instead of entitling local governments to additional private sector resources, CTA recommends improved accounting of the current \$5,000.00 annual registration fee on manufacturers and use of the estimated hundreds of thousands of dollars in surplus fees to support electronic recycling programs in communities identified ~~in the HU study~~ as desiring support for electronics collections in the HU study. These registration fees – which total approximately \$300,000/year – are banked and used ~~by and~~ at the discretion of the DEP, but according to the latest information from DEP there is a surplus. CTA recommends that excess fees be used to support collection and recycling activities in the communities where it is needed. Furthermore, CTA proposes that the law explicitly allow collection programs to charge a fee to help cover their costs.

Finally, CTA also recommends improved reporting by manufacturers, incentives to collect more in rural areas, and a DEP review in 2020 whether the program is adequately meeting the needs of Pennsylvania residents. Proposed bill language is included in Attachment 1.

Given the extensive problems with SB800 CTA recommends that SB800 not advance or, at minimum, be replaced with a more reasonable set of amendments to the CDRA as suggested in Appendix 1 below. As documented in the Harrisburg University study, the existing system is not as bad as some stakeholders have claimed. CTA shares the goal of seeing a well-designed and well-run recycling program accessible to Pennsylvania consumers, and I look forward to working with the Committee on that goal.

Sincerely,

THE CONSUMER TECHNOLOGY ASSOCIATION

Walter Alcorn
Vice President, Environmental Affairs and Industry Sustainability

APPENDIX 1

PROPOSED CHANGES TO PENNSYLVANIA CDRA

Section 6031.102 is revised by adding a definition of “metropolitan area” as follows:

“Metropolitan area.” A county that, as of the 2010 United States Census, had a population density of greater than 200 persons per square mile.

Section 6031.305(c)(2) is revised as follows:

35 P.S. § 6031.305(c)(2). Reporting by manufacturers

When a manufacturer or group of manufacturers participates in, or conducts its own, collection, transportation, and recycling program or programs for covered devices, the manufacturer or group of manufacturers shall submit a report to the department annually by January 30, beginning the year after the program is initiated. The report shall consist of: (a) a complete listing of collection, transportation, and recycling programs that the manufacturer or group of manufacturers participates in or conducts; (b) a complete listing of all collection sites included in such programs; (c) a complete listing of the person or persons operating such collection sites; (d) the amount by weight of covered devices collected at such collection sites during the previous year; (e) the total weight of covered devices collected from consumers in this Commonwealth by the manufacturer or group of manufacturer during the previous year; and (f) documentation verifying collection and recycling of the devices.

Section 6301.305(f)(1) is revised as follows:

35 P.S. 6031.305(f)(1). Effect of failure to comply with approved plan

- (i) If the total weight of pounds of covered devices collected, transported, and recycling during a program year by a manufacturer or group of manufacturers is less than the sum of obligated shares in weight for that program year of each manufacturer participating in the plan, the manufacturer or group of manufacturers shall submit to the department by March 13 of the following program year a payment to cover the cost of collecting, transporting, and recycling the unmet portion of the sum of the obligated shares in weight.
- (ii) For the purpose of calculating any payment owed by a manufacturer or group of manufacturers under this subsection, starting with the program year beginning January 1, 2019, and continuing each year thereafter, the weight of covered devices collected outside of metropolitan areas is calculated at 1.5 times their actual weight.
- (iii) The payment shall be equal to the quantity of the unmet portion, in pounds, plus an additional 10% of such quantity, multiplied by the cost per pound for collection, transportation, and recycling of covered devices.
- (iv) All payments collected under subparagraph (iii) shall be deposited into the Electronic Materials Recycling account and shall be used to fund the activities under this act.

Section 6031.501 is revised as follows:

35 P.S. § 6031.501. Duties of department

The department shall:

- (1) Encourage the use of existing collection and consolidation infrastructure for handling covered devices to the extent that this infrastructure is accessible on a regular and ongoing basis to at least 85% of the population of this Commonwealth, is cost effective and meets the environmentally sound management requirements of section 506.¹
- (2) Update the list maintained pursuant to section 302(b)² upon receipt by the department of a manufacturer's registration or an annual manufacturer registration renewal.
- (3) Organize and coordinate public education and outreach. The department shall work with retailers to develop the appropriate public education and outreach materials and to assist retailers as necessary in the conduct of their public education and outreach efforts.
- (4) Review all plans submitted by a manufacturer or group of manufacturers for the collection, transportation and recycling of covered devices.
- (5) Oversee the implementation of all approved plans and take the necessary actions to ensure compliance with approved plans.
- (6) Assist local governments in performing covered device recycling activities through grants to local governments drawn solely from the Electronic Materials Recycling Account. Such grants shall be distributed when the moneys in the Electronic Materials Recycling Account exceed \$500,000 at any time during a program year. The total amount of such grants in such program year shall not be less than \$200,000.

Section 6031.502 is revised as follows:

35 P.S. § 6031.502. Annual reports

(a) The department shall prepare and submit annually to the General Assembly and post on its Internet website a report that includes:

- (1) The total weight of covered devices collected in this Commonwealth during the previous calendar year.
- (2) A complete listing of all manufacturers' collection, transportation and recycling programs and collection sites operating in this Commonwealth during the prior calendar year, the parties that operated them and the amount of material by weight collected at each site.
- (3) An evaluation of the effectiveness of the department's education and outreach program with retailers and local governments.
- (4) An evaluation of the existing collection and processing infrastructure.

(5) An evaluation of how the department is carrying out its duties imposed on the department under this act.

(6) The amount of the grants provided to each local government in this Commonwealth pursuant to Section 6031.502(6) in the previous calendar year.

(7) Recommendations for expanding the program to include additional electronic devices. All recommendations shall be accompanied by an analysis of the positive and negative aspects along with a cost benefit analysis of the recommendations.

(b) The department shall prepare and submit annually to the General Assembly Environmental Resources & Energy Committees a report that includes:

(1) The balance of the Electronic Materials Recycling Account as of December 31 of the previous calendar year.

(2) The number of full-time or full-time equivalent department employees dedicated to carrying out the duties imposed on the department under this act.

Section 6031.503 is revised as follows:

35 P.S. § 6031.503. Additional duties

The department shall:

(1) Maintain an Internet website and toll-free telephone number complete with up-to-date listings of where consumers may take covered devices for recycling under this act.

(2) No more frequently than annually and no less frequently than biennially, review the amount of the covered device recycling and registration fee. The Environmental Quality Board may promulgate regulations to adjust fees so that the fees generate sufficient revenue reasonably necessary to implement this act, except that registration fees shall not be increased for the purpose of funding additional grants to local governments required under Section 6031.501(6).

(3) By no later than March 1, 2020, submit to the General Assembly Environmental Resources & Energy Committees a report that reviews the adequacy of the collection of covered devices in this Commonwealth and assesses whether the implementation of this act continues to further the purposes of the act without unduly burdening retailers and manufacturers.

Section 6031.504 is revised as follows:

35 P.S. § 6031.504. Fees for collection or recycling of covered devices

Any person who operates a program in this Commonwealth for the collection of covered devices may charge a fee or cost to a consumer for the collection, transportation or recycling of a covered device, regardless of whether the person operating the program is a manufacturer, retailer, for-profit or not-for-profit corporation, unit of government, or any other person.