

A bill for an act
relating to environment; providing for collection, transportation, and recycling of
video display devices; providing civil penalties; proposing coding for new law
in Minnesota Statutes, chapter 115A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[115A.1310] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 115A.1310 to 115A.1330, the
following terms have the meanings given.

Subd. 2. **Cathode-ray tube or CRT.** "Cathode-ray tube" or "CRT" means a vacuum
tube or picture tube used to convert an electronic signal into a visual image.

Subd. 3. **Collection.** "Collection" means the aggregation of covered electronic
devices from households and includes all the activities up to the time the covered
electronic devices are delivered to a recycler.

Subd. 4. **Collector.** "Collector" means a public or private entity that receives
covered electronic devices from households and arranges for the delivery of the devices
to a recycler.

Subd. 5. **Computer.** "Computer" means an electronic, magnetic, optical,
electrochemical, or other high-speed data processing device performing logical, arithmetic,
or storage functions, but does not include an automated typewriter or typesetter, a portable
hand-held calculator or device, or other similar device.

Subd. 6. **Computer monitor.** "Computer monitor" means an electronic device that
is a cathode-ray tube or flat panel display primarily intended to display information from a
central processing unit or the Internet. Computer monitor includes a laptop computer.

Subd. 7. **Covered electronic device.** "Covered electronic device" means computers, peripherals, facsimile machines, scanners, DVD players, video cassette recorders, and video display devices that are sold to a household by means of retail, wholesale, or electronic commerce.

Subd. 8. **Department.** "Department" means the Department of Revenue.

Subd. 9. **Dwelling unit.** "Dwelling unit" has the meaning given in section 238.02, subdivision 21a.

Subd. 10. **Household.** "Household" means an occupant of a single detached dwelling unit or a single unit of a multiple-dwelling unit located in this state who has used a video display device at a dwelling unit primarily for personal use.

Subd. 11. **Manufacturer.** "Manufacturer" means a person who:

(1) manufactures video display devices to be sold under its own brand as identified by its own brand label; or

(2) sells video display devices manufactured by others under its own brand as identified by its own brand label.

Subd. 12. **Peripheral.** "Peripheral" means a keyboard, computer mouse, printer, or any device external to a computer that provides input or output into or from a computer.

Subd. 13. **Program year.** "Program year" means the period from July 1 through June 30.

Subd. 14. **Recycler.** "Recycler" means a public or private individual or entity who accepts covered electronic devices from households and collectors for the purpose of recycling.

Subd. 15. **Recycling.** "Recycling" means the process of collecting and preparing covered electronic devices for reuse in their original form, including any repair or refurbishment that may be performed, or for use in manufacturing processes that do not cause the destruction of the component materials in a manner that precludes further use.

Subd. 16. **Recycling credits.** "Recycling credits" means the number of pounds of covered electronic devices recycled by a manufacturer from households during a program year, less the product of the number of pounds of video display devices sold to households during the same program year, multiplied by the proportion of sales a manufacturer is required to recycle. The calculation and uses of recycling credits are as specified in section 115A.1314, subdivision 1.

Subd. 17. **Retailer.** "Retailer" means a person who sells, rents, or leases, through sales outlets, catalogs, or the Internet, a video display device to a household and not for resale in any form.

3.1 Subd. 18. **Sell or sale.** "Sell" or "sale" means any transfer for consideration of title
3.2 or of the right to use, by lease or sales contract, including, but not limited to, transactions
3.3 conducted through sales outlets, catalogs, or the Internet, or any other similar electronic
3.4 means either inside or outside of the state, by a person who conducts the transaction
3.5 and controls the delivery of a video display device to a consumer in the state, but does
3.6 not include a manufacturer's or distributor's wholesale transaction with a distributor or
3.7 a retailer.

3.8 Subd. 19. **Television.** "Television" means an electronic device that is a cathode-ray
3.9 tube or flat panel display primarily intended to receive video programming via broadcast,
3.10 cable, or satellite transmission or video from surveillance or other similar cameras.

3.11 Subd. 20. **Video display device.** "Video display device" means a television or
3.12 computer monitor, including a laptop computer, that contains a cathode-ray tube or a flat
3.13 panel screen with a screen size that is greater than nine inches measured diagonally and
3.14 that is marketed by manufacturers for use by households. Video display device does
3.15 not include any of the following:

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

3.19 (2) a video display device, including a touch-screen display, that is functionally or
3.20 physically part of a larger piece of equipment or is designed and intended for use in an
3.21 industrial; commercial; library checkout; traffic control; security, other than household
3.22 security; border control; or medical setting, including diagnostic, monitoring, or control
3.23 equipment;

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

3.27 (4) a telephone of any type unless it contains a video display area greater than nine
3.28 inches measured diagonally.

3.29 **Sec. 2. [115A.1312] REGISTRATION PROGRAM.**

3.30 Subdivision 1. **Requirements for sale.** (a) On or after August 1, 2007, a retailer or
3.31 manufacturer must not sell or offer for sale a new video display device to any household
3.32 unless:

3.33 (1) the video display device is labeled with the manufacturer's brand, which label is
3.34 permanently affixed and readily visible; and

4.1 (2) the manufacturer has filed a registration with the agency, as specified in
4.2 subdivision 2.

4.3 (b) A retailer or manufacturer who sells or offers for sale a new video display device
4.4 to a household must, before the initial offer for sale, review the agency Web site specified
4.5 in subdivision 2, paragraph (g), and determine that all new video display devices that the
4.6 retailer or manufacturer is offering for sale are labeled with the manufacturer's brands that
4.7 are registered with the agency.

4.8 (c) A retailer is not responsible for an unlawful sale under this subdivision if the
4.9 manufacturer's registration expired or was revoked and the retailer took possession of the
4.10 video display device prior to the expiration or revocation of the manufacturer's registration
4.11 and the unlawful sale occurred within six months after the expiration or revocation.

4.12 Subd. 2. **Manufacturer's registration.** (a) By August 1 of each year, beginning
4.13 in 2007, a manufacturer of video display devices sold to a household must submit a
4.14 registration to the agency that includes:

4.15 (1) a list of the manufacturer's brands of video display devices offered for sale in
4.16 this state;

4.17 (2) the name, address, and contact information of a person responsible for ensuring
4.18 compliance with this chapter; and

4.19 (3) a certification that the manufacturer has complied and will continue to comply
4.20 with the requirements of sections 115A.1312 to 115A.1318.

4.21 (b) By August 1 of each year, beginning in 2008, a manufacturer of video display
4.22 devices sold or offered for sale to a household must include in the registration submitted
4.23 under paragraph (a) a statement disclosing whether any video display devices sold to
4.24 households exceed the maximum concentration values established for lead, mercury,
4.25 cadmium, hexavalent chromium, polybrominated biphenyls (PBBs), and polybrominated
4.26 diphenyl ethers (PBDEs) under the RoHS (restricting the use of certain hazardous
4.27 substances in electrical and electronic equipment) Directive 2002/95/EC of the European
4.28 Parliament and Council and any amendments thereto.

4.29 (c) A manufacturer who begins to sell or offer for sale video display devices to
4.30 households after August 1, 2007, and has not filed a registration under this subdivision
4.31 must submit a registration to the agency within ten days of beginning to sell or offer for
4.32 sale video display devices to households.

4.33 (d) A registration must be updated within ten days after a change in the
4.34 manufacturer's brands of video display devices sold or offered for sale to households.

4.35 (e) A registration is effective upon receipt by the agency and is valid until August
4.36 1 of each year.

(f) The agency must review each registration and notify the manufacturer of any information required by this section that is omitted from the registration. Within 30 days of receipt of a notification from the agency, the manufacturer must submit a revised registration providing the information noted by the agency.

(g) The agency must maintain on its Web site the names of manufacturers and the manufacturers' brands listed in registrations filed with the agency. The agency must update the Web site information promptly upon receipt of a new or updated registration.

Subd. 3. **Collector's registration.** After August 1, 2007, no person may operate as a collector of covered electronic devices from households unless that person has submitted a registration with the agency on a form prescribed by the commissioner. Registration information must include the name, address, telephone number, and location of the business and a certification that the collector has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318. A registration is effective upon receipt by the agency and is valid until July 1 of each year.

Subd. 4. **Recycler's registration.** After August 1, 2007, no person may recycle video display devices generated by households unless that person has submitted a registration with the agency on a form prescribed by the commissioner. Registration information must include the name, address, telephone number, and location of all recycling facilities under the direct control of the recycler that may receive video display devices from households and a certification that the recycler has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318. A registered recycler may conduct recycling activities that are consistent with this chapter. A registration is effective upon receipt by the agency and is valid until July 1 of each year.

Sec. 3. **[115A.1314] MANUFACTURER'S REGISTRATION FEE; CREATION OF ACCOUNT.**

Subdivision 1. **Registration fee.** (a) Each manufacturer who registers under section 115A.1312 must, by August 1 of each year, beginning in 2007, pay to the commissioner of revenue an annual registration fee. The commissioner of revenue must deposit the fee in the account established in subdivision 2.

(b) The registration fee for the initial program year during which a manufacturer sells or offers for sale video display devices to households is \$5,000. Each year thereafter, the registration fee is equal to a base fee of \$2,500, plus a variable recycling fee calculated according to the formula:

$((A \times B) - (C + D)) \times E$, where:

(1) A = the number of pounds of video display devices sold by a manufacturer to households during the previous program year, as reported to the department under section 115A.1316, subdivision 1;

(2) B = the proportion of sales of video display devices required to be recycled, initially set at 1.00;

(3) C = the number of pounds of covered electronic devices recycled by a manufacturer from households during the previous program year, as reported to the department under section 115A.1316, subdivision 2;

(4) D = the number of recycling credits a manufacturer elects to use to calculate the variable recycling fee, as reported to the department under section 115A.1316, subdivision 1, paragraph (c), clause (2); and

(5) E = the estimated per-pound cost of recycling, initially set at \$0.50 per pound.

(c) If, as specified in paragraph (b), the term $C - (A \times B)$ equals a positive number of pounds, that amount is defined as the manufacturer's recycling credits. A manufacturer may retain recycling credits reported under section 115A.1316, subdivision 1, paragraph (c), clause (2), to be added, in whole or in part, to the actual value of C during any of the three succeeding program years. A manufacturer may sell any portion or all of its recycling credits to another manufacturer, at a price negotiated by the parties, who may use the credits in the same manner.

(d) For the purpose of calculating a manufacturer's variable recycling fee under paragraph (b), the weight of covered electronic devices collected from households located in counties other than Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Kanabec, Le Sueur, McLeod, Meeker, Pine, Ramsey, Renville, Rice, Scott, Sherburne, Sibley, Washington, and Wright is calculated at 1.3 times their actual weight.

(e) The registration fee for the initial program year and the base registration fee thereafter for a manufacturer who sells fewer than 100 video display devices annually to households is \$1,250.

Subd. 2. **Creation of account; appropriations.** (a) The electronic waste account is established in the environmental fund. The commissioner of revenue must deposit receipts from the fee established in subdivision 1 in the account. Any interest earned on the account must remain in the account. Money from other sources may be credited to the account.

(b) The legislature shall appropriate money from the account:

(1) to the commissioner of the Pollution Control Agency and the commissioner of revenue for the purpose of implementing sections 115A.1312 to 115A.1330; and

(2) to the commissioner of the Pollution Control Agency to be distributed on a competitive basis through contracts with the following entities for the purpose of carrying out the activities under sections 115A.1310 to 115A.1330:

(i) counties located outside the 11-county metropolitan area; and

(ii) private collectors that collect for recycling covered electronic devices from households located outside the 11-county metropolitan area, provided that their collection activities are consistent with the solid waste plans in the respective counties.

(c) For the purposes of this subdivision, "11-county metropolitan area" means the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright.

Sec. 4. **[115A.1316] REPORTING REQUIREMENTS.**

Subdivision 1. **Manufacturer's reporting requirements.** (a) By August 1 of each year, beginning in 2008, each manufacturer must report to the department the weight of each specific model of video display device sold to households during the previous program year. The department will use this information to verify a manufacturer's annual registration fee as specified in section 115A.1314, subdivision 1.

(b) By August 1 of each year, beginning in 2008, each manufacturer must report to the department the total weight of covered electronic devices collected from households and recycled during the preceding program year. A manufacturer using the method in section 115A.1314, subdivision 1, paragraph (d), to calculate all or part of the manufacturer's variable recycling fee must report separately the total weight of covered electronic devices collected and recycled from households located in the counties specified in that paragraph.

(c) By August 1 of each year, beginning in 2008, each manufacturer must report to the department:

(1) the number of recycling credits the manufacturer has purchased and sold during the preceding program year;

(2) the number of recycling credits possessed by the manufacturer that the manufacturer elects to use in the calculation of its variable recycling fee under section 115A.1314, subdivision 1; and

(3) the number of recycling credits the manufacturer retains at the beginning of the current program year.

Subd. 2. **Recycler's reporting requirements.** By August 1 of each year, beginning in 2008, a recycler of covered electronic devices must report to the agency and the department the total weight of covered electronic devices recycled during the preceding

program year and must certify that the recycler has complied with section 115A.1318, subdivision 2.

Subd. 3. **Collector's reporting requirements.** By August 1 of each year, beginning in 2008, a collector must report separately to the agency the total pounds of covered electronic devices collected in the counties specified in section 115A.1314, subdivision 1, paragraph (d), and all other Minnesota counties, and a list of all recyclers to whom collectors delivered covered electronic devices.

Sec. 5. [115A.1318] RESPONSIBILITIES.

Subdivision 1. **Manufacturer's responsibilities.** (a) In addition to fulfilling the requirements of sections 115A.1310 to 115A.1330, a manufacturer must comply with paragraphs (b) to (d).

(b) A manufacturer must annually recycle or arrange for the collection and recycling of an amount of covered electronic devices equal to the total weight of video display devices sold by the manufacturer during the preceding program year, multiplied by the proportion of sales of video display devices required to be recycled, as established by the agency under section 115A.1320, subdivision 1, paragraph (c).

(c) The obligations of a manufacturer apply only to video display devices received from households and do not apply to video display devices received from sources other than households.

(d) A manufacturer must conduct and document due diligence assessments of collectors and recyclers it contracts with to ensure that all recyclers comply with the requirements of subdivision 2. A manufacturer is responsible for maintaining, for a period of three years, documentation that all video display devices recycled, partially recycled, or sent to downstream recycling operations comply with the requirements of subdivision 2.

Subd. 2. **Recycler's responsibilities.** (a) As part of the report submitted under section 115A.1316, subdivision 2, a recycler must certify, except as provided in paragraph (b), that facilities that recycle video display devices, including all downstream recycling operations:

(1) comply with all applicable health, environmental, safety, and financial responsibility regulations;

(2) are licensed by all applicable governmental authorities;

(3) use no prison labor to recycle video display devices; and

(4) possess liability insurance of not less than \$1,000,000 for environmental releases, accidents, and other emergencies.

9.1 (b) A nonprofit corporation that contracts with a correctional institution to refurbish
9.2 and reuse donated computers in schools is exempt from paragraph (a), clauses (3) and (4).

9.3 (c) Except to the extent otherwise required by law, a recycler has no responsibility
9.4 for any data that may be contained in a covered electronic device if an information storage
9.5 device is included in the covered electronic device.

9.6 Subd. 3. **Retailer's responsibilities.** (a) By July 1 of each year, beginning in 2008,
9.7 a retailer must report to a manufacturer the number of video display devices labeled with
9.8 the manufacturer's brand sold to households during the previous program year.

9.9 (b) A retailer who sells new video display devices shall provide information to
9.10 households describing where and how they may recycle video display devices and
9.11 advising them of opportunities and locations for the convenient collection of video display
9.12 devices for the purpose of recycling. This requirement may be met by providing to
9.13 households the agency's toll-free number and Web site address. Retailers selling through
9.14 catalogs or the Internet may meet this requirement by including the information in a
9.15 prominent location on the retailer's Web site.

9.16 Sec. 6. **[115A.1320] AGENCY AND DEPARTMENT DUTIES.**

9.17 Subdivision 1. **Duties of agency.** (a) The agency shall administer sections
9.18 115A.1310 to 115A.1330.

9.19 (b) The agency shall establish procedures for:

9.20 (1) receipt and maintenance of the registration statements and certifications filed
9.21 with the agency under section 115A.1312; and

9.22 (2) making the statements and certifications easily available to manufacturers,
9.23 retailers, and members of the public.

9.24 (c) The agency shall annually review the value of the following variables that are
9.25 part of the formula used to calculate a manufacturer's annual registration fee under section
9.26 115A.1314, subdivision 1:

9.27 (1) the proportion of sales of video display devices sold to households that
9.28 manufacturers are required to recycle;

9.29 (2) the estimated per-pound price of recycling covered electronic devices sold to
9.30 households;

9.31 (3) the base registration fee; and

9.32 (4) the multiplier for the weight of covered electronic devices collected that is set in
9.33 section 115A.1314, subdivision 1, paragraph (d).

9.34 If the agency determines that any of these values must be changed in order to improve
9.35 the efficiency or effectiveness of the activities regulated under sections 115A.1312 to

115A.1330, it shall present those recommendations and the reasons for them to the chairs of the senate and house of representatives committees with jurisdiction over solid waste policy.

(d) The agency shall annually calculate estimated sales of video display devices sold to households by each manufacturer during the preceding program year based on national sales data and forward the estimates to the department.

(e) The agency shall manage the account established in section 115A.1314, subdivision 2.

(f) On or before December 1, 2010, and each year thereafter, the agency shall provide a report to the governor and the legislature on the implementation of sections 115A.1310 to 115A.1330. For each program year, the report must discuss the total weight of covered electronic devices recycled and a summary of information in the reports submitted by manufacturers and recyclers under section 115A.1316. The report must also discuss the various collection programs used by manufacturers to collect covered electronic devices; information regarding covered electronic devices that are being collected by persons other than registered manufacturers, collectors, and recyclers; and information about covered electronic devices, if any, being disposed of in landfills in this state. The report must include a description of enforcement actions under sections 115A.1310 to 115A.1330. The agency may include in its report other information received by the agency regarding the implementation of sections 115A.1310 to 115A.1330.

(g) The agency shall promote public participation in the activities regulated under sections 115A.1312 to 115A.1330 through public education and outreach efforts.

(h) The agency shall enforce sections 115A.1310 to 115A.1330 in the manner provided by sections 115.071, subdivisions 1, 3, 4, 5, and 6; and 116.072, except for those provisions enforced by the department, as provided in subdivision 2. The agency may revoke a registration of a collector or recycler found to have violated sections 115A.1310 to 115A.1330.

Subd. 2. **Duties of department.** (a) The department must collect the data submitted to it annually by each manufacturer on the weight of each specific model of video display device sold to households, the weight of covered electronic devices collected from households that is recycled, and data on recycling credits, as required under section 115A.1316.

(b) The department must estimate, for each registered manufacturer, the sales of video display devices to households during the previous program year based on:

11.1 (1) data provided by a manufacturer on sales of video display devices to households,
11.2 including documentation describing how that amount was calculated and certification that
11.3 the amount is accurate; or

11.4 (2) if a manufacturer does not provide the data specified in clause (1), national data
11.5 on sales of video display devices, as provided by the agency under section 115A.1320,
11.6 subdivision 1, paragraph (d).

11.7 (c) The department must use the data specified in this subdivision to review each
11.8 manufacturer's annual registration fee submitted to the department to ensure that the fee
11.9 was calculated accurately according to the formula in section 115A.1314, subdivision 1.

11.10 (d) The department must enforce section 115A.1314, subdivision 1. The audit,
11.11 assessment, appeal, collection, enforcement, disclosure, and other administrative
11.12 provisions of chapters 270B, 270C, and 289A that apply to the taxes imposed under
11.13 chapter 297A apply to the fee imposed under section 115A.1314, subdivision 1. To
11.14 enforce this subdivision, the commissioner of revenue may grant extensions to pay,
11.15 and impose and abate penalties and interest on, the fee due under section 115A.1314,
11.16 subdivision 1, in the manner provided in chapters 270C and 289A as if the fee were a
11.17 tax imposed under chapter 297A.

11.18 (e) The department may disclose nonpublic data to the agency only when necessary
11.19 for the efficient and effective administration of the activities regulated under sections
11.20 115A.1310 to 115A.1330. Any data disclosed by the department to the agency retains the
11.21 classification it had when in the possession of the department.

11.22 **Sec. 7. [115A.1322] OTHER RECYCLING PROGRAMS.**

11.23 A city, county, or other public agency may not require households to use public
11.24 facilities to recycle their covered electronic devices to the exclusion of other lawful
11.25 programs available. Nothing in sections 115A.1310 to 115A.1330 prohibits or restricts
11.26 the operation of any program recycling covered electronic devices in addition to those
11.27 provided by manufacturers or prohibits or restricts any persons from receiving, collecting,
11.28 transporting, or recycling covered electronic devices, provided that those persons are
11.29 registered under section 115A.1312.

11.30 **Sec. 8. [115A.1324] REQUIREMENTS FOR PURCHASES BY STATE**
11.31 **AGENCIES.**

11.32 (a) The Department of Administration must ensure that acquisitions of video display
11.33 devices under chapter 16C are certified by the vendor to be in compliance with sections
11.34 115A.1310 to 115A.1318.

12.1 **(b) The bid solicitation documents must specify that the prospective bidder is**
12.2 **required to cooperate fully in providing reasonable access to its records and documents**
12.3 **that evidence compliance with paragraph (a) and sections 115A.1310 to 115A.1318.**

12.4 **(c) Any person awarded a contract under chapter 16C for purchase or lease of video**
12.5 **display devices that is found to be in violation of paragraph (a) or sections 115A.1310 to**
12.6 **115A.1318 is subject to the following sanctions:**

12.7 **(1) the contract must be voided;**

12.8 **(2) the contractor is ineligible to bid on any state contract for video display devices**
12.9 **for a period of three years; and**

12.10 **(3) if the attorney general establishes that any money, property, or benefit was**
12.11 **obtained by a contractor as a result of violating paragraph (a) or sections 115A.1312 to**
12.12 **115A.1318, the court may, in addition to any other remedy, order the disgorgement of the**
12.13 **unlawfully obtained money, property, or benefit.**

12.14 **Sec. 9. [115A.1326] REGULATION OF VIDEO DISPLAY DEVICES.**

12.15 **If the United States Environmental Protection Agency adopts regulations under the**
12.16 **Resource Conservation and Recovery Act regarding the handling, storage, or treatment**
12.17 **of any type of video display device being recycled, those regulations are automatically**
12.18 **effective in this state on the same date and supersede any rules previously adopted by the**
12.19 **agency regarding the handling, storage, or treatment of all video display devices being**
12.20 **recycled.**

12.21 **Sec. 10. [115A.1328] MULTISTATE IMPLEMENTATION.**

12.22 **The agency and department are authorized to participate in the establishment and**
12.23 **implementation of a regional multistate organization or compact to assist in carrying out**
12.24 **the requirements of this chapter.**

12.25 **Sec. 11. [115A.1330] LIMITATIONS.**

12.26 **Sections 115A.1310 to 115A.1330 expire if a federal law, or combination of federal**
12.27 **laws, take effect that is applicable to all video display devices sold in the United States**
12.28 **and establish a program for the collection and recycling or reuse of video display devices**
12.29 **that is applicable to all video display devices discarded by households.**

12.30 **Sec. 12. EFFECTIVE DATE.**

12.31 **Sections 1 to 11 are effective the day following final enactment.**