SYNOPSIS
Revises “Electronic Waste Management Act.”

CURRENT VERSION OF TEXT
As reported by the Assembly Environment and Solid Waste Committee on March 8, 2012, with amendments.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 3 of P.L.2007, c.347 (C.13:1E-99.96) is amended to read as follows:

3. a. Beginning on January 1, 2010, and each January 1 thereafter, each manufacturer of televisions offered for sale for delivery in this State shall register with the department and pay a registration fee of $5,000. Each television manufacturer's registration and renewal shall include a list of all of the brands under which its televisions are sold. All fees collected pursuant to this subsection shall be allocated to the department to be used in the administration of the “Electronic Waste Management Act,” P.L.2007, c.347 (C.13:1E-99.94 et seq.).

b. Each registered television manufacturer shall submit an annual renewal of its registration to the department and pay to the department a registration renewal fee of $5,000 by January 1 of each program year. Each registered television manufacturer's renewal shall include an annual report. All fees collected pursuant to this subsection shall be allocated to the department to be used in the administration of P.L.2007, c.347.

c. In addition to reporting all brands under which its televisions are sold, regardless of whether the brand is owned or licensed, the registered television manufacturer's annual report shall include the total number of all new televisions sold in the State in the previous program year. The department shall determine a registered television manufacturer's market share.

d. A registered television manufacturer shall inform the department, in writing, as soon as it becomes aware that it will cease selling televisions in the State.

e. By June 1, 2010, each registered television manufacturer or group of registered television manufacturers shall submit a plan to the department to collect, transport and recycle used televisions based on the television manufacturer's market share. Every plan shall be filed with a television manufacturer's annual registration, and shall include:

(1) Methods that will be used to collect the used televisions including proposed collection services;

(2) The processes and methods that will be used to recycle recovered used televisions including a description of the recycling

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
1Assembly AEN committee amendments adopted March 8, 2012.
processes that will be used, including the name and location of all
authorized recyclers to be directly utilized by the plan;

(3) Means that will be utilized to publicize the collection
services, including specification of a website or toll-free telephone
number that provides information about the registrant’s recycling
program in sufficient detail to allow consumers to learn how to
return their used televisions for recycling, including limitations
placed by collection sites on the number of used televisions
permitted for drop-off by consumers; and

(4) The intention of the registrant to fulfill its obligation through
its own operations, either individually or with other registered
television manufacturers, or by contract with for-profit or not-for-
profit corporations, or local government units.

The department shall hold confidential any information obtained
pursuant to this subsection when shown by a registered television
manufacturer that the information, if made public, would divulge
competitive business information, methods or processes entitled to
protection as trade secrets of the registered television manufacturer.

Recovered used televisions shall not be sent to prisons for
recycling either directly or through intermediaries and nothing in
this section shall be construed to allow for the recycling of used
television by prisoners. Any person committed to a jail, prison, or
other institution for the detention of persons charged with or
convicted of an offense shall be disqualified from being an
authorized recycler.

By January 1, 2011, each registered television manufacturer or
group of registered television manufacturers shall commence its
used television recycling program to implement and finance the
collection, transportation, and recycling of used televisions. The
used television recycling program shall accept all types and all
brands of used televisions, including orphan devices.

f. Each registrant’s plan or plan jointly submitted by a group of
registrants shall be reviewed to determine its compliance with
subsection e. of this section and approved by the department. The
department may reject the plan, in whole or in part, and may impose
additional requirements as a condition of approval.

g. If a registered television manufacturer fails to comply with
all the conditions and terms of an approved plan, the registered
television manufacturer shall be prohibited from selling or offering
for sale televisions in this State.

h. [Registered television manufacturers that collect, transport,
and recycle used televisions in excess of their market share may sell
credits to another registrant or apply that excess to the following
year’s recycling program.] Registered television manufacturers that
collect, transport, and recycle used televisions in excess of their
market share may sell credits to another registrant or apply that
excess to the following year's recycling program; provided that no
more than 25 percent of a manufacturer’s obligation for any
program year may be met with credits generated in a prior program
year. No manufacturer or group of manufacturers, as the case may
be, may cease implementing its plan required pursuant to subsection
e. of this section and approved by the department, during any
program year by using credits.

i. Nothing in this act is intended to exempt any person from
liability the person would otherwise have under applicable law.

j. If less than 100 televisions are sold by a manufacturer in the
previous program year, the department shall not require a
manufacturer to pay the registration fee or registration renewal fee,
as appropriate, in the subsequent year, pursuant to subsections a. or
b. of this section.

(cf: P.L.2008, c.130, s.2)

2. Section 3 of P.L.2008, c.130 (C.13:1E-99.96a) is amended to
read as follows:

3. a. The department shall prepare a plan every three years
that: (1) establishes used television per-capita collection and
recycling goals; and (2) identifies any necessary State actions to
expand collection opportunities to achieve the used television per-
capita collection and recycling goals. The plan shall be posted on
the department’s Internet website and submitted, pursuant to section

b. The department shall prepare an annual report, which shall
be posted on the department’s Internet website and submitted,
pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
Legislature.

The annual report shall include the following:

(1) Progress toward achieving the overall annual total recovery
and recycling goals described in the plan prepared pursuant to
subsection a. of this section; and

(2) An evaluation of the effectiveness of existing used television
collection and processing infrastructure.

c. [The used television recovery and recycling program
implemented to effectuate the provisions of P.L.2007, c.347
(C.13:1E-99.94 et al.) and its associated regulations shall be fully
audited by an independent, certified public accountant at the end of
each calendar year and the audit report shall be submitted, pursuant
to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.]  
(Deleted by amendment, P.L. , c. ) (pending before the
Legislature as this bill).

(cf: P.L.2008, c.130, s.3)

to read as follows:
8. Beginning on January 1, 2011, no person shall sell or offer for sale in this State a new covered electronic device, including a television, if the covered electronic device is prohibited from being sold or offered for sale in the European Union on or after its date of manufacture due to the concentration of one or more heavy metals in the covered electronic device exceeding its maximum concentration value, as specified in the Commission of European Communities' Decision of August 18, 2005, amending Directive 2002/95/EC (European Union document 2005/618/EC), or as specified in a subsequent amendment to the Directive. The sale or offer for sale of a new covered electronic device that exceeds the European Union heavy metal maximum concentration value on or after its date of manufacture shall be permitted if the use of the heavy metal is necessary to comply with consumer, health, or safety requirements imposed by the Underwriters Laboratories or federal or State law.

(cf: P.L.2008, c.130, s.6)

4. Section 9 of P.L.2007, c.347 (C.13:1E-99.102) is amended to read as follows:

9. a. (1) By January 30, 2012, and by each January 30 thereafter, the department shall:

(a) have completed an auditable, statistically significant valid sampling of covered electronic devices collected from consumers in this State during the previous program year. The sampling information collected shall consist of a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand. The department's sampling shall be conducted in accordance with a procedure established by the department and may be conducted by a third-party organization including an authorized recycler, to be determined by the department. The department may, at its discretion, be present at the sampling and may audit the methodology and the results of the third-party organization. The costs associated with the sampling shall be recovered from the fees paid by manufacturers to the department; and

(b) determine the total weight of covered electronic devices, including orphan devices, collected from consumers in this State during the previous program year.

(2) If a manufacturer or group of manufacturers conducts its own sampling of covered electronic devices, the manufacturer or group of manufacturers shall submit a report to the department annually by March 1, beginning the year after the program is initiated. The report shall include:

(a) the results of an auditable, statistically significant valid sampling of covered electronic devices collected from consumers in this State by the manufacturer or group of manufacturers during the
previous program year. The sampling information reported shall consist of a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand; and

(b) the total weight of covered electronic devices, including orphan devices, collected from consumers in this State by the manufacturer or group of manufacturers during the previous program year and documentation verifying collection and recycling of such devices.

b. By February 1, 2010, and each January 1 thereafter, each manufacturer of covered electronic devices offered for sale for delivery in this State shall register with the department and pay a registration fee of $5,000. Any manufacturer to whom the department provides notification of a return share and return share in weight pursuant to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-99.105) and who has not previously filed a registration shall file a registration with the department within 30 days of receiving such notification from the department. Each manufacturer's registration and renewal shall include a list of all of the manufacturer's brands of covered electronic devices.

The provisions of this section shall not apply to any manufacturer or retailer of televisions offered for sale for delivery in this State.

c. If less than 100 covered electronic devices are sold by a manufacturer in the previous program year, the department shall not require a manufacturer to pay the registration fee or registration renewal fee, as appropriate, in the subsequent year, pursuant to this subsection b. of this section.

5. Section 10 of P.L.2007, c.347 (C.13:1E-99.103) is amended to read as follows:

10. a. By June 1, 2010, each manufacturer to whom the department provides, by April 2, 2010, a return share in weight that is greater than zero shall submit a plan to the department to collect, transport and recycle covered electronic devices.

b. Each manufacturer to whom the department provides, by February 15, 2012 or by February 15 of any year thereafter, a return share in weight that is greater than zero shall, by March 15 of that year, comply with the requirements of subsection a. of this section.

c. An individual manufacturer submitting a plan pursuant to subsection a. of this section shall collect, transport, and recycle its return share in weight.

d. A group of manufacturers jointly submitting a plan pursuant to subsection a. of this section shall collect, transport, and recycle the sum of the obligations of each participating manufacturer.
e. Every plan shall be filed with a manufacturer's annual registration, and shall include:
   (1) Methods that will be used to collect the covered electronic devices including proposed collection services;
   (2) The processes and methods that will be used to recycle recovered covered electronic devices including a description of the recycling processes that will be used, including the name and location of all authorized recyclers to be directly utilized by the plan;
   (3) The processes and methods that will be used to recycle recovered covered electronic devices which originated from transactions between business concerns;
   (4) Means that will be utilized to publicize the collection services, including specification of a website or toll-free telephone number that provides information about the manufacturer's program in sufficient detail to allow consumers to learn how to return their covered electronic devices for recycling; and
   (5) The intention of the registrant to fulfill its obligation through operation of its own plan, either individually or with other manufacturers.

The department shall hold confidential any information obtained pursuant to this subsection when shown by a manufacturer that the information, if made public, would divulge competitive business information, methods or processes entitled to protection as trade secrets of the manufacturer.

Recovered covered electronic devices shall not be sent to prisons for recycling either directly or through intermediaries and nothing in this section shall be construed to allow for the recycling of covered electronic devices by prisoners. Any person committed to a jail, prison, or other institution for the detention of persons charged with or convicted of an offense shall be disqualified from engaging in the manual or mechanical separation of covered electronic devices to recover components and commodities contained therein for the purpose of re-use or recycling.

By January 1, 2011, each manufacturer or group of manufacturers required to submit a plan, pursuant to subsection a. of this section, shall commence its covered electronic device recycling program to implement and finance the collection, transportation, and recycling of covered electronic devices other than televisions. The covered electronic device recycling program shall accept all types and all brands of used covered electronic devices, including orphan devices.

f. Each manufacturer's plan or plan jointly submitted by a group of manufacturers shall be reviewed to determine its compliance with subsection e. of this section and approved by the department. The department may reject the plan, in whole or in
part, and may impose additional requirements as a condition of
approval.

g. If a manufacturer fails to comply with all the conditions and
terms of an approved plan, the manufacturer shall be prohibited
from selling or offering for sale in this State a covered electronic
device.

h. Manufacturers that collect, transport, and recycle covered
electronic devices in excess of their obligation may sell credits to
another registrant or apply that excess to the following year's
recycling obligation. Manufacturers that collect, transport, and
recycle covered electronic devices in excess of their obligation may
sell credits to another registrant or apply that excess to the
following year's recycling obligation; provided that no more than 25
percent of a manufacturer's obligation for any program year may be
met with credits generated in a prior program year. No
manufacturer or group of manufacturers, as the case may be, may
cease implementing its plan required pursuant to subsection e. of
this section and approved by the department, during any program
year by using credits.

i. (Deleted by amendment, P.L.2008, c.130)

j. (Deleted by amendment, P.L.2008, c.130)

k. Nothing in this act is intended to exempt any person from
liability the person would otherwise have under applicable law.

l. The provisions of this section shall not apply to any
manufacturer or retailer of televisions offered for sale for delivery
in this State.

(cf: P.L.2008, c.130, s.8)

to read as follows:

12. a. (1) The department shall determine the return share for
each program year for each manufacturer by dividing the weight of
covered electronic devices identified for each manufacturer by the
total weight of covered electronic devices identified for all
manufacturers. For the first program year, the return share of
covered electronic devices identified for each manufacturer shall be
based on the best available public return share data from the United
States, including data from other states, for covered electronic
devices from consumers. For the second and each subsequent
program year, the return share of covered electronic devices
identified for each manufacturer shall be based on the most recent
samplings of covered electronic devices conducted in this State
pursuant to subsection a. of section 9 of P.L.2007, c.347 (C.13:1E-
99.102).

(2) The department shall determine the return share in weight
for each program year for each manufacturer for whom a return
share is determined pursuant to paragraph (1) of this subsection by
multiplying the return share for each such manufacturer by the total weight in pounds of covered electronic devices, including orphan devices, collected from consumers the previous program year. For the first program year, the total weight in pounds of covered electronic devices shall be based on the best available public weight data from the United States, including data from other states, for covered electronic devices from consumers. For the second and each subsequent program year, the total weight in pounds of covered electronic devices shall be based on the total weight of covered electronic devices, including orphan devices, determined by the department pursuant to subsection a. of section 9 of P.L.2007, c.347 (C.13:1E-99.102).

(3) By April 2, 2011, the department shall provide each manufacturer for whom a return share is determined pursuant to paragraph (1) of this subsection with its return share and its return share in weight for the first program year. Annually thereafter, by February 15, beginning in 2013, the department shall provide each manufacturer for whom a return share is determined pursuant to paragraph (1) of this subsection with its return share and its return share in weight for the second and subsequent program years.

b. (Deleted by amendment, P.L.2008, c.130)
c. (1) The department shall ensure that at least one electronics collection opportunity is available in each county throughout the State and in such a manner as to be convenient, to the maximum extent practicable and feasible, to all consumers in the county.

(2) The department shall ensure that collection sites do not place unreasonable limits on the number of covered electronic devices permitted for drop-off by consumers.

d. (1) Beginning on January 1, 2011, the department shall maintain a list of registrants and the brands reported in each manufacturer's registration, and post the list on the department's Internet website that is updated at least once a month.

(2) The department shall organize and coordinate public education and outreach.

e. The department shall prepare a plan every three years that:

(1) establishes per-capita collection and recycling goals; and (2) identifies any necessary State actions to expand collection opportunities to achieve the per-capita collection and recycling goals. The plan shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

f. The department shall prepare an annual report, which shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

The annual report shall include the following:
(1) The total weight of covered electronic devices collected in
the State the previous calendar year;
(2) Progress toward achieving the overall annual total recovery
and recycling goals described in the plan prepared pursuant to
subsection e. of this section;
(3) A complete listing of all collection sites operating in the
State in the prior calendar year, the parties that operated them, and
the amount of material by weight collected at each site;
(4) An evaluation of the effectiveness of the education and
outreach program; and
(5) An evaluation of the existing collection and processing
infrastructure.
g. [The program implemented to effectuate the provisions of
this act and its associated regulations shall be fully audited by an
independent, certified public accountant at the end of each calendar
year and the audit report shall be submitted, pursuant to section 2 of
P.L.1991, c.164 (C.52:14-19.1), to the Legislature.] (Deleted by
amendment, P.L. , c. ) (pending before the Legislature as this
bill).
h. The provisions of this section shall not apply to any
manufacturer or retailer of televisions offered for sale for delivery
in this State.
(cf: P.L.2008, c.130, s.10)
7. Section 13 of P.L.2007, c.347 (C.13:1E-106) is amended to
read as follows:
13. a. The department shall maintain an Internet website and
toll-free number complete with up-to-date listings of where
consumers can bring covered electronic devices for recycling under
the provisions of this act.
b. (Deleted by amendment, P.L.2008, c.130)
c. [No more frequently than annually and no less frequently
than biennially, the department shall review, at a public hearing, the
covered electronic device recycling goals and registration fees.
Recommended changes to the covered electronic device recycling
goals and registration fees shall be included in the annual reports
required pursuant to section 3 of P.L.2008, c.130 (C.13:1E-99.96a)
and subsection f. of section 12 of P.L.2007, c.347 (C.13:1E-
99.105).] (Deleted by amendment, P.L. , c. ) (pending before
the Legislature as this bill).
d. No fees or costs may be charged to consumers for the
collection, transportation, or recycling of covered electronic devices
except that a nominal fee may be charged to a consumer if a
financial incentive, such as a coupon, of equal or greater value is
provided ; Any authorized recycler may charge fees to schools or
local government units for the reasonable costs incurred by the
authorized recycler for the collection, transportation, or recycling of
covered electronic devices.
(cf: P.L.2008, c.130, s.11)

to read as follows:

16. a. On and after January 1, 2011, no person shall knowingly
dispose of a used covered electronic device, or any of the
components or subassemblies thereof, as solid waste.

b. No solid waste facility in this State shall knowingly accept
for disposal any truckload or roll-off container of solid waste
containing a visible quantity of covered electronic devices, or any
of the components or subassemblies thereof, as solid waste at any
time.

c. An owner or operator of a solid waste facility may refuse to
accept for disposal any truckload or roll-off container of solid waste
containing a visible quantity of covered electronic devices or any of
the components or subassemblies thereof.

d. An owner or operator of a solid waste facility shall not be
found in violation of this section if the owner or operator has:

(1) made a good faith effort to comply with this section;
(2) posted in a conspicuous location at the solid waste facility a
sign stating that covered electronic devices, or any of the
components or subassemblies thereof, shall not be accepted at the
solid waste facility; and
(3) notified, in writing, all persons authorized to deposit solid
waste at the solid waste facility that covered electronic devices, or
any of the components or subassemblies thereof, shall not be
accepted at the solid waste disposal facility.

e. As used in this section, “solid waste facility” shall have the
same meaning as set forth in section 3 of P.L.1970, c.39 (C.13:1E-
3).
(cf: P.L.2008, c.130, s.13)

amended to read as follows:

17. a. The State, including the Attorney General and the
department, shall be authorized to initiate independent action to
enforce any provision of this act, including failure by a
manufacturer to remit the registration fee required pursuant to
section 3 of P.L.2007, c.347 (C.13:1E-99.96) or section 9 of
P.L.2007, c.347 (C.13:1E-99.102), or any fee required pursuant to
subsection b. of section 18 of P.L.2007, c.347 (C.13:1E-99.111) to
the department. Any funds awarded by the court shall be used first
to offset enforcement expenses. Money in excess of the
enforcement expenses shall be deposited into a separate account,
and shall be dedicated for use by the department solely for the
purposes of administering and enforcing the provisions of this act
and any rules or regulations adopted pursuant thereto.\[Deleted by
amendment, P.L. , c. \(\text{[}\) (pending before the Legislature as this
bill)\[\]
\]
b. [Any person who violates the provisions of this act shall be
subject to a penalty of not less than $500 nor more than $1,000 for
each offense, to be collected in a civil action by a summary
proceeding under the "Penalty Enforcement Law of 1999,"
P.L.1999, c.274 (C.2A:58-10 et seq.), or in any case before a court
of competent jurisdiction wherein injunctive relief has been
requested. The Superior Court shall have jurisdiction to enforce the
provisions of the "Penalty Enforcement Law of 1999" in connection
with this act.

If the violation is of a continuing nature, each day during which
it continues constitutes an additional, separate, and distinct offense.
The department may institute a civil action for injunctive relief
to enforce this act and to prohibit and prevent a violation of this act,
and the court may proceed in the action in a summary manner.\[Deleted by amendment, P.L. , c. \(\text{[}\) (pending before the
Legislature as this bill)\[\]
\]
c. [Violations of the act include, but are not limited to:
(1) the sale of a new covered electronic device by any person
that is not in full compliance with the provisions of this act;
(2) the use of a qualified collection program to recycle covered
electronic devices not discarded within the State, or region as
provided in section 19 of P.L.2007, c.347 (C.13:1E-99.112);
(3) the knowing failure to report or accurately report any data
required to be reported to the department pursuant to this act; \(\text{[and]}\)
(4) the non-payment of any fee required pursuant to this act ;
(5) failure to register, pursuant to subsection a. of section 3 of
P.L.2007, c.347 (C.13:1E-99.96) or pursuant to subsection b. of
section 9 of P.L.2007, c.347 (C.13:1E-99.102);
(6) failure to submit or implement a plan pursuant to section 3
or 10 of P.L.2007, c.347 (C.13:1E-99.96 or C.13:1E-99.103)\[Deleted by amendment, P.L. , c. \(\text{[}\) (pending before the
Legislature as this bill)\[\]
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(C.13:1E-99.94 et seq.), and any rule or regulation adopted pursuant
thereto, shall be enforced by the department and may be enforced
by every certified local health agency \(\text{[}\), as the case may be\(\text{[}\),
Whenever the commissioner finds that a person has violated any
provision of P.L.2007, c.347, or any rule or regulation adopted
pursuant thereto, the commissioner may:
(1) issue an order, in accordance with subsection e. of this
section, requiring the person found to be in violation to comply:
(2) bring a civil action in accordance with subsection f. of this section;
(3) levy a civil administrative penalty in accordance with subsection g. of this section; or
(4) bring an action for a civil penalty in accordance with subsection h. of this section.

e. Whenever, on the basis of available information, the commissioner finds that a person has violated any provision of P.L.2007, c.347, or any rule or regulation adopted thereto, the commissioner may issue an administrative enforcement order: (1) specifying the provision or provisions of P.L.2007, c.347, or the rule or regulation, of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; and (4) providing notice to the person of the right to a hearing on the matters contained in the administrative enforcement order. The ordered party shall have 35 days from receipt of the order within which to deliver to the commissioner a written request for a hearing. An order shall be effective upon receipt and any person to whom such order is directed shall comply with the order immediately. A request for hearing shall not automatically stay the effect of the order.

f. The commissioner is authorized to, and a certified local health agency may, institute a civil action in Superior Court for appropriate relief from any violation of the provisions of P.L.2007, c.347, or any rule or regulation adopted thereof. Such relief may include, singly or in combination:

(1) a temporary or permanent injunction;
(2) recovery of reasonable costs of any investigation or inspection which led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;
(3) recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any violation of the provisions of P.L.2007, c.347, or any rule or regulation adopted pursuant thereto, for which a civil action has been commenced and brought under this subsection;
(4) recovery of compensatory damages caused by a violation of the provisions of P.L.2007, c.347, or any rule or regulation adopted, for which a civil action has been commenced and brought under this subsection. Assessments under this subsection shall be paid to the State Treasurer, or to the certified local health agency, as the case may be, except that compensatory damages may be paid by specific order of the court to any persons who have been aggrieved by the violation. If a proceeding is instituted by a certified local health agency, notice thereof shall be served upon the commissioner in the same manner as if the commissioner were a named party to the
action or proceeding. The department may intervene as a matter of right in any proceeding brought by a certified local health agency.

g. (1) Except as authorized otherwise in paragraph (2) of this subsection, the commissioner is authorized to assess a civil administrative penalty of not less than $500 nor more than $1,000 for each violation, provided that each day during which the violation continues shall constitute an additional, separate and distinct offense.

(2) For any violation of sections 3, 7, 8, 10 or 11 of P.L.2007, c.347 (C.13:1E-99.96, C.13:1E-99.100, C.13:1E-99.101, C.13:1E-99.103, or C.13:1E-99.104) or subsection a. or b. of section 6, subsection h. of section 9, or subsection a. of section 15 of P.L.2007, c.347 (C.13:1E-99.99, C.13:1E-99.102, C.13:1E-99.108), the commissioner is authorized to assess a civil administrative penalty not to exceed $50,000 for each day during which a violation continues. In assessing a civil administrative penalty, the commissioner shall consider the severity of the violation, the measures taken to prevent further violations, and whether the penalty will maintain an appropriate deterrent.

Prior to assessment of a civil administrative penalty, the person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall identify the section of the statute, rule, regulation, or order violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil administrative penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative order is in addition to all other enforcement provisions in P.L.2007, c.347, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate.

h. A person who violates any provision of P.L.2007, c.347, or any rule or regulation adopted pursuant thereto, or an administrative order issued pursuant to subsection e. of this section, or a court order issued pursuant to subsection f. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection g. of this section, or who knowingly makes any false or misleading
statement on any application, record, report, or other document required to be submitted to the department, shall be subject, upon order of a court, to a civil penalty not to exceed $50,000 per day of the violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), or may be collected in a civil action commenced by a certified local health agency, or the commissioner, as the case may be. In addition to any penalties, costs or interest charges, the Superior Court, or the municipal court as the case may be, may assess against the violator the amount of economic benefit accruing to the violator from the violation.

i. As used in this section, "certified local health agency" shall have the same meaning as set forth in section 3 of P.L.1977, c.443 (C.26:3A2-23).

j. Violations of the act include, but are not limited to:
   (1) the sale of a new covered electronic device by any person that is not in full compliance with the provisions of this act;
   (2) the use of a qualified collection program to recycle covered electronic devices not discarded within the State, or region as provided in section 19 of P.L.2007, c.347 (C.13:1E-99.112);
   (3) the knowing failure to report or accurately report any data required to be reported to the department pursuant to this act;
   (4) the non-payment of any fee required pursuant to this act;
   (5) failure to register, pursuant to subsection a. of section 3 of P.L.2007, c.347 (C.13:1E-99.96) or pursuant to subsection b. of section 9 of P.L.2007, c.347 (C.13:1E-99.102);
   (6) failure to submit or implement a plan pursuant to section 3 or 10 of P.L.2007, c.347 (C.13:1E-99.96 or C.13:1E-99.103); and

(cf: P.L.2008, c.130, s.14)

10. (New section) In addition to the environmental health laws that are enforced by a certified local health agency pursuant to section 7 of P.L.1977, c.443 (C.26:3A2-25), a certified local health agency may agree to enforce the provisions of P.L.2007, c.347 (C.13:1E-99.94 et seq.) as provided in section 17 of P.L.2007, c.347 (C.13:1E-99.110).

11. This act shall take effect immediately.