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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. **3136**

02/26/2018 Authored by Clark; Carlson, A., and Dehn, R.,
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy and Finance

1.1 A bill for an act
1.2 relating to environment; modifying requirements for recycling electronic devices;
1.3 modifying terms of certain loan program; requiring rulemaking for disposal facility
1.4 certificates; amending Minnesota Statutes 2016, sections 115A.1310, subdivision
1.5 12b; 115A.1314; 115A.1316; 115A.1318, subdivisions 1, 2; 116.993, subdivisions
1.6 2, 6.

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

1.8 Section 1. Minnesota Statutes 2016, section 115A.1310, subdivision 12b, is amended to
1.9 read:

1.10 Subd. 12b. **Phase II recycling credits.** "Phase II recycling credits" means the number
1.11 of pounds of covered electronic devices ~~recycled by a manufacturer~~ recycled, or arranged
1.12 to have collected and recycled, that have met the requirements under section 115A.1318,
1.13 subdivision 1, paragraph (b), from households during a program year beginning July 1,
1.14 2019, and thereafter, from households located outside the 11-county metropolitan area, as
1.15 defined in section 115A.1314, subdivision 2, less the manufacturer's recycling obligation
1.16 calculated for the same program year in section 115A.1320, subdivision 1, paragraph (g).

1.17 Sec. 2. Minnesota Statutes 2016, section 115A.1314, is amended to read:

1.18 **115A.1314 MANUFACTURER'S REGISTRATION FEE.**

1.19 Subdivision 1. **Registration fee.** (a) Each manufacturer who registers under section
1.20 115A.1312 must, by August 15 each year, pay to the commissioner of revenue an annual
1.21 registration fee, on a form and in a manner prescribed by the commissioner of revenue. The
1.22 commissioner of revenue must deposit the fee in the state treasury and credit the fee to the
1.23 environmental fund.

2.1 (b) The registration fee for manufacturers that sell 100 or more video display devices
 2.2 to households in the state during the previous calendar year is \$2,500, plus a variable
 2.3 recycling fee. The registration fee for manufacturers that sell fewer than 100 video display
 2.4 devices in the state during the previous calendar year is a variable recycling fee. The variable
 2.5 recycling fee is calculated according to the formula:

2.6 $[A - (B + C)] \times D$, where:

2.7 A = the manufacturer's recycling obligation as determined under section 115A.1320;

2.8 B = the number of pounds of covered electronic devices ~~recycled~~ by a manufacturer
 2.9 recycled, or arranged to have collected and recycled, from households that have met the
 2.10 requirements under section 115A.1318, subdivision 1, paragraph (b), from households
 2.11 during the immediately preceding program year, as reported under section 115A.1316,
 2.12 subdivision 1;

2.13 C = the number of phase I or phase II recycling credits a manufacturer elects to use to
 2.14 calculate the variable recycling fee; and

2.15 D = the estimated per-pound cost of recycling, initially set at \$0.50 per pound for
 2.16 manufacturers who recycle less than 50 percent of the manufacturer's recycling obligation;
 2.17 \$0.40 per pound for manufacturers who recycle at least 50 percent but less than 90 percent
 2.18 of the manufacturer's recycling obligation; \$0.30 per pound for manufacturers who recycle
 2.19 at least 90 percent but less than 100 percent of the manufacturer's recycling obligation; and
 2.20 \$0.00 per pound for manufacturers who recycle 100 percent or more of the manufacturer's
 2.21 recycling obligation.

2.22 (c) A manufacturer may petition the agency to waive the per-pound cost of recycling
 2.23 fee, element D in the formula in paragraph (b), required under this section. The agency shall
 2.24 direct the commissioner of revenue to waive the per-pound cost of recycling fee if the
 2.25 manufacturer demonstrates to the agency's satisfaction a good faith effort to meet its recycling
 2.26 obligation as determined under section 115A.1320. The petition must include:

2.27 (1) documentation that the manufacturer has met at least 75 percent of its recycling
 2.28 obligation as determined under section 115A.1320;

2.29 (2) a list of political subdivisions and public and private collectors with whom the
 2.30 manufacturer had a formal contract or agreement in effect during the previous program year
 2.31 to recycle or collect covered electronic devices;

2.32 (3) the total amounts of covered electronic devices collected from both within and outside
 2.33 of the 11-county metropolitan area, as defined in subdivision 2;

3.1 (4) a description of the manufacturer's best efforts to meet its recycling obligation as
3.2 determined under section 115A.1320; and

3.3 (5) any other information requested by the agency.

3.4 (d) A manufacturer may retain phase I and phase II recycling credits to be added, in
3.5 whole or in part, to the actual value of C, as reported under section 115A.1316, subdivision
3.6 2, during any succeeding program year, provided that no more than 25 percent of a
3.7 manufacturer's recycling obligation ($A \times B$) for any program year may be met with phase
3.8 I and phase II recycling credits, separately or in combination, generated in a prior program
3.9 year. A manufacturer may sell any portion or all of its phase I and phase II recycling credits
3.10 to another manufacturer, at a price negotiated by the parties, who may use the credits in the
3.11 same manner.

3.12 (e) For the purpose of calculating a manufacturer's variable recycling fee under paragraph
3.13 (b), starting with the program year beginning July 1, 2019, and continuing each year
3.14 thereafter, the weight of covered electronic devices collected from households located
3.15 outside the 11-county metropolitan area, as defined in subdivision 2, paragraph (b), is
3.16 calculated at 1.5 times their actual weight.

3.17 **Subd. 2. Use of registration fees.** (a) Registration fees may be used by the commissioner
3.18 for:

3.19 (1) implementing sections 115A.1312 to 115A.1330, including transfer to the
3.20 commissioner of revenue to carry out the department's duties under section 115A.1320,
3.21 subdivision 2, and transfer to the commissioner of administration for responsibilities under
3.22 section 115A.1324; ~~and~~

3.23 (2) grants to counties outside the 11-county metropolitan area, as defined in paragraph
3.24 (b), and to private entities that collect for recycling covered electronic devices in counties
3.25 outside the 11-county metropolitan area, where the collection and recycling is consistent
3.26 with the respective county's solid waste plan, for the purpose of carrying out the activities
3.27 under sections 115A.1312 to 115A.1330. In awarding competitive grants under this clause,
3.28 the commissioner must give preference to counties and private entities that are working
3.29 cooperatively with manufacturers to help them meet their recycling obligations under section
3.30 115A.1318, subdivision 1; and

3.31 (3) distribution to counties using the distribution formula under section 115A.557, up
3.32 to the amount collected under the previous program year's variable recycling fee that the
3.33 commissioner determines is not needed to carry out clause (1).

4.1 (b) The 11-county metropolitan area consists of the counties of Anoka, Carver, Chisago,
4.2 Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright.

4.3 Sec. 3. Minnesota Statutes 2016, section 115A.1316, is amended to read:

4.4 **115A.1316 REPORTING REQUIREMENTS.**

4.5 Subdivision 1. **Manufacturer's reporting requirements.** (a) By August 1, 2016, each
4.6 manufacturer must report to the agency using the form prescribed:

4.7 (1) the total weight of each specific model of its video display devices sold to households
4.8 during the previous program year; and

4.9 (2) either:

4.10 (i) the total weight of its video display devices sold to households during the previous
4.11 program year; or

4.12 (ii) an estimate of the total weight of its video display devices sold to households during
4.13 the previous program year, calculated by multiplying the weight of its video display devices
4.14 sold nationally times the quotient of Minnesota's population divided by the national
4.15 population. All manufacturers with sales of 99 or fewer video display devices to households
4.16 in the state during the previous calendar year must report using the method under this item
4.17 for calculating sales.

4.18 (b) By March 1, 2017, and each March 1 thereafter, each manufacturer must report to
4.19 the agency using the form prescribed:

4.20 (1) the total weight of each specific model of its video display devices sold to households
4.21 during the previous calendar year; and

4.22 (2) either:

4.23 (i) the total weight of its video display devices sold to households during the previous
4.24 calendar year; or

4.25 (ii) an estimate of the total weight of its video display devices sold to households during
4.26 the previous calendar year, calculated by multiplying the weight of its video display devices
4.27 sold nationally times the quotient of Minnesota's population divided by the national
4.28 population. All manufacturers with sales of 99 or fewer video display devices to households
4.29 in the state during the previous calendar year must report using the method under this item
4.30 for calculating sales.

5.1 A manufacturer must submit with the report required under this paragraph a description
5.2 of how the information or estimate was calculated.

5.3 ~~(c) By August 15 each year, each manufacturer must report to the department until June~~
5.4 ~~30, 2017, and to the agency thereafter;~~

5.5 (1) the total weight of covered electronic devices the manufacturer collected from
5.6 households and recycled or arranged to have collected and recycled during the preceding
5.7 program year;

5.8 ~~(d) By August 15 each year, each manufacturer must report separately to the department~~
5.9 ~~until June 30, 2017, and to the agency thereafter:~~

5.10 (2) the amount the manufacturer paid per pound of covered electronic devices during
5.11 the preceding program year to each party to satisfy the manufacturer's responsibilities under
5.12 section 115A.1318 and the manufacturer's obligation determined under section 115A.1320
5.13 and the name of the party or parties paid;

5.14 ~~(3)~~ (3) the number of phase I and phase II recycling credits the manufacturer has
5.15 purchased and sold during the preceding program year, including the name of the party or
5.16 parties the credits were purchased from or sold to;

5.17 ~~(2)~~ (4) the number of phase I and phase II recycling credits possessed by the manufacturer
5.18 that the manufacturer elects to use in the calculation of its variable recycling fee under
5.19 section 115A.1314, subdivision 1; and

5.20 ~~(3)~~ (5) the number of phase I and phase II recycling credits the manufacturer retains at
5.21 the beginning of the current program year; and

5.22 (6) any other information requested by the agency to determine whether a manufacturer,
5.23 recycler, collector, or retailer is in compliance with sections 115A.1310 to 115A.1330.

5.24 ~~(e)~~ (d) Upon request of the commissioner of revenue, the agency shall provide a copy
5.25 of each report to the commissioner of revenue.

5.26 **Subd. 2. Recycler's reporting requirements.** By July 15 each year, a recycler of covered
5.27 electronic devices must report to the agency:

5.28 (1) the total weight of covered electronic devices recycled during the preceding program
5.29 year and must certify that the recycler has complied with section 115A.1318, subdivision
5.30 2;

5.31 (2) the weight of video display devices recycled as part of covered electronic devices
5.32 recycled during the previous program year; and

6.1 (3) an estimate of the weight of portable batteries and any mercury-containing lamps
6.2 that are associated with the covered electronic devices managed;

6.3 (4) the cost the recycler incurred during the preceding program year per pound of covered
6.4 electronic devices to each party that are used to satisfy a manufacturer's responsibilities
6.5 under section 115A.1318 and the manufacturer's obligation determined under section
6.6 115A.1320 and the name of the manufacturer or manufacturers that paid the recycler; and

6.7 (5) any other information requested by the agency to determine whether a manufacturer,
6.8 recycler, collector, or retailer is in compliance with sections 115A.1310 to 115A.1330.

6.9 Upon request of the commissioner of revenue, the agency shall provide a copy of each
6.10 report to the commissioner of revenue.

6.11 Subd. 3. **Collector's reporting requirements.** By July 15 each year, a collector must
6.12 report separately to the agency using the form prescribed by the commissioner:

6.13 (1) the total pounds of covered electronic devices collected in the state;

6.14 (2) a list of all recyclers to whom collectors delivered covered electronic devices; ~~and~~

6.15 (3) whether the collector had a contract with a recycler or manufacturer to provide pounds
6.16 toward meeting a manufacturer's obligation; and

6.17 (4) any other information requested by the agency to determine whether a manufacturer,
6.18 recycler, collector, or retailer is in compliance with sections 115A.1310 to 115A.1330.

6.19 Sec. 4. Minnesota Statutes 2016, section 115A.1318, subdivision 1, is amended to read:

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

6.23 (b) A manufacturer must annually recycle or arrange for the collection and recycling of
6.24 an amount of video display devices as determined by the agency in section 115A.1320,
6.25 subdivision 1. A manufacturer must assume all financial responsibility associated with
6.26 transporting and recycling covered electronic devices that are used to meet the manufacturer's
6.27 recycling obligation determined under section 115A.1320 or that are counted as phase I or
6.28 II recycling credits, including any necessary supplies. This excludes costs that are associated
6.29 with receiving and aggregating covered electronic devices from households and all the
6.30 activities up to the time that covered electronic devices are loaded for transport to a recycler
6.31 or arranged for transportation to a recycler.

7.1 (c) The obligations of a manufacturer as determined under section 115A.1320, apply
 7.2 only to video display devices received from households and do not apply to video display
 7.3 devices received from sources other than households.

7.4 (d) A manufacturer must conduct and document due diligence assessments of collectors
 7.5 and recyclers it contracts with, including an assessment of items specified under subdivision
 7.6 2. A manufacturer is responsible for maintaining, for a period of three years, documentation
 7.7 that all covered electronic devices recycled, partially recycled, or sent to downstream
 7.8 recycling operations comply with the requirements of subdivision 2.

7.9 (e) A manufacturer must provide the agency with contact information for a person who
 7.10 can be contacted regarding the manufacturer's activities under sections 115A.1310 to
 7.11 115A.1320.

7.12 (f) Only the covered electronic devices that are recycled by a registered recycler that is
 7.13 certified by an ANSI-ASQ National Accreditation Board-accredited third-party certification
 7.14 body to an environmentally sound management standard are eligible to meet the
 7.15 manufacturer's obligation.

7.16 Sec. 5. Minnesota Statutes 2016, section 115A.1318, subdivision 2, is amended to read:

7.17 Subd. 2. **Recycler's responsibilities.** (a) As part of the report submitted under section
 7.18 115A.1316, subdivision 2, a recycler must certify, except as provided in paragraph (b), that
 7.19 facilities that recycle covered electronic devices, including all downstream recycling
 7.20 operations:

7.21 (1) use only registered collectors;

7.22 (2) comply with all applicable health, environmental, safety, and financial responsibility
 7.23 regulations;

7.24 (3) are licensed by all applicable governmental authorities;

7.25 (4) use no prison labor to recycle video display devices;

7.26 (5) possess liability insurance of not less than \$1,000,000 for environmental releases,
 7.27 accidents, and other emergencies;

7.28 (6) provide a report annually to each registered collector regarding the video display
 7.29 devices received from that entity; and

7.30 (7) do not charge collectors for the transportation and recycling of covered electronic
 7.31 devices, or any necessary supplies, that meet a manufacturer's recycling obligation as
 7.32 determined under section 115A.1320, ~~unless otherwise mutually agreed upon.~~

8.1 (b) A nonprofit corporation that contracts with a correctional institution to refurbish and
 8.2 reuse donated computers in schools is exempt from paragraph (a), clauses (4) and (5).

8.3 (c) Except to the extent otherwise required by law and unless agreed upon otherwise by
 8.4 the recycler or manufacturer, a recycler has no responsibility for any data that may be
 8.5 contained in a covered electronic device if an information storage device is included in the
 8.6 covered electronic device.

8.7 Sec. 6. Minnesota Statutes 2016, section 116.993, subdivision 2, is amended to read:

8.8 Subd. 2. **Eligible borrower.** To be eligible for a loan under this section, a borrower
 8.9 must:

8.10 (1) be a small business corporation, sole proprietorship, partnership, or association;

8.11 (2) be a potential emitter of pollutants to the air, ground, or water;

8.12 (3) need capital for equipment purchases that will meet or exceed environmental
 8.13 regulations or need capital for site investigation and cleanup;

8.14 (4) have ~~less~~ fewer than ~~50~~ 100 full-time equivalent employees; and

8.15 (5) have an ~~after-tax~~ after-tax profit of less than \$500,000; ~~and~~.

8.16 ~~(6) have a net worth of less than \$1,000,000.~~

8.17 Sec. 7. Minnesota Statutes 2016, section 116.993, subdivision 6, is amended to read:

8.18 Subd. 6. **Loan conditions.** A loan made under this section must include:

8.19 (1) an interest rate that is ~~four percent or~~ at or below one-half the prime rate, ~~whichever~~
 8.20 ~~is greater~~ not to exceed five percent;

8.21 (2) a term of payment of not more than seven years; and

8.22 (3) an amount not less than \$1,000 or exceeding ~~\$50,000~~ \$75,000.

8.23 Sec. 8. **RULEMAKING; DISPOSAL FACILITY CERTIFICATES.**

8.24 (a) The commissioner of the Pollution Control Agency must amend Minnesota Rules,
 8.25 part 7048.1000, subpart 4, item D, to require six contact hours of required training to renew
 8.26 a type IV disposal facility certificate.

8.27 (b) The commissioner may use the good cause exemption under Minnesota Statutes,
 8.28 section 14.388, subdivision 1, clause (3), to adopt rules under this section, and Minnesota

- 9.1 Statutes, section 14.386, does not apply, except as provided under Minnesota Statutes,
- 9.2 section 14.388.