

State of Wisconsin



2021 Senate Bill 248

Date of enactment: **August 6, 2021**
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2021 WISCONSIN ACT 79

AN ACT to renumber and amend 287.17 (1) (k) and 287.17 (1) (np); to amend 287.13 (5) (i), 287.17 (1) (b), 287.17 (1) (c), 287.17 (1) (e), 287.17 (1) (eg) 1. (intro.), 287.17 (1) (eg) 1. b., 287.17 (1) (eg) 2., 287.17 (1) (em) (intro.), 287.17 (1) (gs) (intro.), 287.17 (1) (L), 287.17 (1) (m), 287.17 (1) (n), 287.17 (2) (a) (intro.), 287.17 (2) (a) 4., 287.17 (2) (c) 1., 287.17 (2) (c) 2., 287.17 (3) (a) (intro.), 287.17 (3) (b) (intro.), 287.17 (3) (e), 287.17 (4) (b) 1., 287.17 (4) (b) 2., 287.17 (4) (b) 3., 287.17 (4) (bm), 287.17 (4) (d) (intro.), 287.17 (4) (d) 1., 287.17 (4) (f) 1., 287.17 (4) (f) 2., 287.17 (5) (a) 1. (intro.), 287.17 (5) (a) 1. a., 287.17 (5) (a) 1. b., 287.17 (5) (a) 1. c., 287.17 (5) (a) 2., 287.17 (7) (a) 1. (intro.), 287.17 (7) (a) 2., 287.17 (7) (b), 287.17 (8) (a) 1. (intro.), 287.17 (8) (a) 2., 287.17 (8) (b) 1., 287.17 (8) (b) 2. (intro.), 287.17 (9), 287.17 (9m), 287.17 (10) (a), 287.17 (10) (c) 1. d., 287.17 (10) (d) (intro.), 287.17 (10) (j) and 287.17 (10) (k); and to create 287.17 (1) (k) 1., 287.17 (1) (k) 2., 287.17 (1) (k) 3., 287.17 (1) (pg), 287.17 (4) (b) (intro.), 287.17 (4) (be), 287.17 (5) (a) 1m. and 287.17 (10) (fm) of the statutes; relating to: changes to the electronic waste recycling program and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 287.13 (5) (i) of the statutes is amended to read:

287.13 (5) (i) Solid waste that consists of eligible electronic devices, as defined in s. 287.17 (1) (gs), used by households or covered schools.

SECTION 2. 287.17 (1) (b) of the statutes is amended to read:

287.17 (1) (b) "Collection" means the act of receiving eligible electronic devices from households or covered schools and delivering, or arranging for the delivery of, the eligible electronic devices to a recycler.

SECTION 3. 287.17 (1) (c) of the statutes is amended to read:

287.17 (1) (c) "Collector" means a person who receives eligible electronic devices from households or

covered schools and delivers, or arranges for the delivery of, the eligible electronic devices to a recycler.

SECTION 4. 287.17 (1) (e) of the statutes is amended to read:

287.17 (1) (e) "Consumer computer" means a high-speed data processing device for performing logical, arithmetic, or storage functions that is marketed by the manufacturer for use by households or covered schools, except that "consumer computer" does not include an automated typewriter or typesetter, a portable hand-held calculator or device, or other similar device.

SECTION 5. 287.17 (1) (eg) 1. (intro.) of the statutes is amended to read:

287.17 (1) (eg) 1. (intro.) "Consumer printer" means, except as provided in subd. 2., one of the following that is marketed by the manufacturer for use by households or covered schools:

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

SECTION 6. 287.17 (1) (eg) 1. b. of the statutes is amended to read:

287.17 (1) (eg) 1. b. A device listed under par. (gs) 1. to 6. or 7. that prints ~~and has other functions, such as copying, scanning, or sending facsimiles,~~ and that is designed to be placed on a desk or other work surface.

SECTION 7. 287.17 (1) (eg) 2. of the statutes is amended to read:

287.17 (1) (eg) 2. “Consumer printer” does not include a calculator with printing capabilities ~~or a~~, label maker, or other similar household printing device; a floor-standing printer; an automated teller machine, as defined in s. 134.85 (1) (a); or a point-of-sale receipt printer.

SECTION 8. 287.17 (1) (em) (intro.) of the statutes is amended to read:

287.17 (1) (em) (intro.) “Consumer video display device” means a television or computer monitor with a tube or screen that is at least 7 inches in its longest diagonal measurement and that is marketed by the manufacturer for use by households or covered schools, except that “consumer video display device” does not include any of the following:

SECTION 9. 287.17 (1) (gs) (intro.) of the statutes is amended to read:

287.17 (1) (gs) (intro.) “Eligible electronic device” means a device that is one of the following and that is used by a household primarily for personal use or by a covered school, unless the device is of a kind exempted by a rule promulgated under ~~s. 287.17 sub.~~ (10) (i):

SECTION 10. 287.17 (1) (k) of the statutes is renumbered 287.17 (1) (k) (intro.) and amended to read:

287.17 (1) (k) (intro.) “Program year” means the ~~period from July 1 to the following June 30.~~ one of the following:

SECTION 11. 287.17 (1) (k) 1. of the statutes is created to read:

287.17 (1) (k) 1. For any period before the beginning of the transition year, a period that runs from July 1 to the following June 30.

SECTION 12. 287.17 (1) (k) 2. of the statutes is created to read:

287.17 (1) (k) 2. The transition year.

SECTION 13. 287.17 (1) (k) 3. of the statutes is created to read:

287.17 (1) (k) 3. For any period after the end of the transition year, a period that runs from January 1 to the following December 31.

SECTION 14. 287.17 (1) (L) of the statutes is amended to read:

287.17 (1) (L) “Recycler” means a person who accepts eligible electronic devices from households, covered schools, or collectors for the purpose of recycling. “Recycler” does not include a manufacturer who accepts products exclusively for refurbishing or repair.

SECTION 15. 287.17 (1) (m) of the statutes is amended to read:

287.17 (1) (m) “Recycling” means preparing eligible electronic devices for use in manufacturing processes or for recovery of usable materials and delivering the materials for use. “Recycling” does not include destruction by incineration or other processes or land disposal of recyclable materials and does not include reuse, repair, or any other process through which eligible electronic devices are returned for use by households or covered schools in their original form.

SECTION 16. 287.17 (1) (n) of the statutes is amended to read:

287.17 (1) (n) “Retailer” means a person who sells a covered electronic device to a household or covered school in this state, in person or by mail, telephone, or the Internet, for use by the household or covered school.

SECTION 17. 287.17 (1) (np) of the statutes is renumbered 287.17 (1) (fm) and amended to read:

287.17 (1) (fm) “School” ~~“Covered school”~~ means a public school, as defined in s. 115.01 (1), a private school participating in the program under s. 118.60, or a private school participating in the program under s. 119.23 ~~elementary or secondary school, including a charter school,~~ as defined in s. 115.001 (1), or a private elementary or secondary school, or a tribal school, as defined in s. 115.001 (15m).

SECTION 18. 287.17 (1) (pg) of the statutes is created to read:

287.17 (1) (pg) “Transition year” means the 18-month period from July 1, 2022, to December 31, 2023.

SECTION 19. 287.17 (2) (a) (intro.) of the statutes is amended to read:

287.17 (2) (a) *Manufacturers.* (intro.) Beginning on February 1, 2010, a manufacturer may not sell to a household or covered school, offer to sell to a household or covered school, or deliver to a retailer for subsequent sale to a household or covered school a new covered electronic device unless all of the following apply:

SECTION 20. 287.17 (2) (a) 4. of the statutes is amended to read:

287.17 (2) (a) 4. The manufacturer recycles or arranges for the recycling, by a registered recycler, of eligible electronic devices used by households or covered schools in this state.

SECTION 21. 287.17 (2) (c) 1. of the statutes is amended to read:

287.17 (2) (c) 1. Beginning on July 1, 2010, a retailer may not sell or offer for sale to a household or covered school a new covered electronic device unless, before making the first offer for sale, the retailer has determined that the brand of the covered electronic device is listed on the department’s Internet site under sub. (10) (a).

SECTION 22. 287.17 (2) (c) 2. of the statutes is amended to read:

287.17 (2) (c) 2. If a manufacturer's registration is revoked or expired and the retailer took possession of a covered electronic device of the manufacturer before the registration was revoked or expired, the retailer may sell the covered electronic device to a household or covered school, but only if the sale takes place fewer than 180 days after the revocation or expiration.

SECTION 23. 287.17 (3) (a) (intro.) of the statutes is amended to read:

287.17 (3) (a) (intro.) To comply with sub. (2) (a) 2., a manufacturer shall, ~~no later than February 1, 2010, and annually, no later than September 1 beginning in 2010~~ the first day of the 3rd month of each program year, submit to the department a registration that includes all of the following:

SECTION 24. 287.17 (3) (b) (intro.) of the statutes is amended to read:

287.17 (3) (b) (intro.) ~~Beginning with the registration due by September 1, 2010, a~~ A manufacturer shall indicate in its registration under par. (a) which of the following applies:

SECTION 25. 287.17 (3) (e) of the statutes is amended to read:

287.17 (3) (e) A complete registration is effective on receipt by the department and is valid until the first day of the 3rd month of the following September 1 program year unless revoked before that date.

SECTION 26. 287.17 (4) (b) (intro.) of the statutes is created to read:

287.17 (4) (b) (intro.) In each program year other than the program year immediately following the transition year:

SECTION 27. 287.17 (4) (b) 1. of the statutes is amended to read:

287.17 (4) (b) 1. If the manufacturer sold at least ~~250~~ 500 covered electronic devices in this state during the previous program year, the manufacturer shall pay a registration fee of \$5,000, except, as provided under sub. (10) (k).

SECTION 28. 287.17 (4) (b) 2. of the statutes is amended to read:

287.17 (4) (b) 2. If the manufacturer sold at least ~~25~~ 250 but fewer than ~~250~~ 500 covered electronic devices in this state during the previous program year, the manufacturer shall pay a registration fee of \$1,250, ~~except as provided under sub. (10) (k).~~

SECTION 29. 287.17 (4) (b) 3. of the statutes is amended to read:

287.17 (4) (b) 3. If the manufacturer sold fewer than ~~25~~ 250 covered electronic devices in this state during the previous program year, the manufacturer is not required to pay a registration fee.

SECTION 30. 287.17 (4) (be) of the statutes is created to read:

287.17 (4) (be) *Registration fees immediately following the transition year.* In the program year immediately following the transition year:

1. If the manufacturer sold at least 750 covered electronic devices in this state during the transition year, the manufacturer shall pay a registration fee of \$7,500, except as provided in sub. (10) (k).

2. If the manufacturer sold at least 375 but fewer than 750 covered electronic devices in this state during the transition year, the manufacturer shall pay a registration fee of \$1,875, except as provided in sub. (10) (k).

3. If the manufacturer sold fewer than 375 covered electronic devices in this state during the transition year, the manufacturer is not required to pay a registration fee.

SECTION 31. 287.17 (4) (bm) of the statutes is amended to read:

287.17 (4) (bm) *Shortfall fees.* In addition to the registration fee, beginning in 2011, a manufacturer shall pay shortfall fees under par. (d) if the amounts calculated under that provision are positive numbers, except that a manufacturer is not required to pay shortfall fees until its covered electronic devices have been sold or offered for sale to households or covered schools in this state for 3 full program years and except as provided under par. (g).

SECTION 32. 287.17 (4) (d) (intro.) of the statutes is amended to read:

287.17 (4) (d) *Annual shortfall fee after 2010.* (intro.) The annual shortfall fee to be paid by a manufacturer in a program year after 2010 is calculated as follows:

SECTION 33. 287.17 (4) (d) 1. of the statutes is amended to read:

287.17 (4) (d) 1. Determine the manufacturer's target recycling weight by multiplying the number of pounds of the manufacturer's covered electronic devices sold to households or covered schools in this state during the program year that began ~~36 months~~ 3 program years before the beginning of the program year in which the calculation is made, as reported under sub. (5) (a), by 0.8.

SECTION 34. 287.17 (4) (f) 1. of the statutes is amended to read:

287.17 (4) (f) 1. The weight of eligible electronic devices recycled by or on behalf of a manufacturer for a program year is the weight reported under sub. (5) (b) for that program year, except that if the manufacturer reports separately the weight of eligible electronic devices used by households or covered schools in rural counties and used by households or covered schools in urban counties for a program year, the weight is determined by adding the weight used by households or covered schools in urban counties in that program year and 1.25 times the weight used by households or covered schools in rural counties in that program year.

SECTION 35. 287.17 (4) (f) 2. of the statutes is amended to read:

287.17 (4) (f) 2. The weight of eligible electronic devices recycled by or on behalf of a manufacturer for the

last 2 program quarters of program year 2009–10 is the weight reported under sub. (5) (b) for that period, except that if the manufacturer reports separately the weight of eligible electronic devices used by households or covered schools in rural counties and used by households or covered schools in urban counties for that period, the weight is determined by adding the weight used by households or covered schools in urban counties in that period and 1.25 times the weight used by households or covered schools in rural counties in that period.

SECTION 36. 287.17 (5) (a) 1. (intro.) of the statutes is amended to read:

287.17 (5) (a) 1. (intro.) Except as provided in subd. 3. and subject to subd. 1m., with each registration that it submits under sub. (3), a manufacturer shall report one of the following to the department:

SECTION 37. 287.17 (5) (a) 1. a. of the statutes is amended to read:

287.17 (5) (a) 1. a. The total weight of each model of its covered electronic devices sold to households or covered schools in this state during the program year that began ~~24 months~~ 2 program years before the beginning of the program year in which the report is made.

SECTION 38. 287.17 (5) (a) 1. b. of the statutes is amended to read:

287.17 (5) (a) 1. b. The total weight of all of its covered electronic devices sold to households or covered schools in this state during the program year that began ~~24 months~~ 2 program years before the beginning of the program year in which the report is made.

SECTION 39. 287.17 (5) (a) 1. c. of the statutes is amended to read:

287.17 (5) (a) 1. c. An estimate, based on national sales data, of the total weight of its covered electronic devices sold to households or covered schools in this state during the program year that began ~~24 months~~ 2 program years before the beginning of the program year in which the report is made.

SECTION 40. 287.17 (5) (a) 1m. of the statutes is created to read:

287.17 (5) (a) 1m. For a registration required to be submitted in 2022, the weights reported under subd. 1. a. to c. shall be the weights sold from July 1, 2020, to December 31, 2021. For a registration required to be submitted in 2024, the weights reported under subd. 1. a. to c. shall be the weights sold from January 1, 2022, to December 31, 2022. For a registration required to be submitted in 2025, the weights reported under subd. 1. a. to c. shall be the weights sold from January 1, 2023, to December 31, 2023.

SECTION 41. 287.17 (5) (a) 3. of the statutes is amended to read:

287.17 (5) (a) 3. A manufacturer is not required to report under subd. 1. until its covered electronic devices have been sold or offered for sale to households or covered schools in this state for one full program year.

SECTION 42. 287.17 (5) (b) of the statutes is amended to read:

287.17 (5) (b) *Weight of eligible electronic devices recycled.* ~~With the registration that it submits under sub. (3) that is due by September 1, 2010, a manufacturer shall report to the department the total weight of eligible electronic devices used by households or schools in this state that were collected by or delivered to the manufacturer for recycling by the manufacturer or that were collected by or delivered to a registered recycler for recycling on behalf of the manufacturer during the last 2 program quarters of the preceding program year. Beginning in 2011, with the registration that it submits under sub. (3), a manufacturer shall report to the department the total weight of eligible electronic devices used by households or covered schools in this state that were collected by or delivered to the manufacturer for recycling by the manufacturer or that were collected by or delivered to a registered recycler for recycling on behalf of the manufacturer during the preceding program year. A manufacturer may~~ shall also report separately the weight of eligible electronic devices used by households or covered schools in rural counties and used by households or covered schools in urban counties for the purpose of obtaining the weight adjustment under sub. (4) (f) for eligible electronic devices received from households or covered schools in rural counties.

SECTION 43. 287.17 (7) (a) 1. (intro.) of the statutes is amended to read:

287.17 (7) (a) 1. (intro.) ~~Beginning on January 1, 2010, no~~ No person may operate as a collector delivering or arranging for the delivery of eligible electronic devices to a registered recycler for recycling on behalf of a manufacturer who is registered under sub. (3) unless the person is registered under this paragraph. A person shall register by submitting, ~~no later than January 1, 2010, and annually, no later than August 1 beginning in 2010~~ the first day of the 2nd month of each program year, to the department a registration, using a form prescribed by the department, that includes all of the following:

SECTION 44. 287.17 (7) (a) 2. of the statutes is amended to read:

287.17 (7) (a) 2. A complete registration is effective on receipt by the department and is valid until the first day of the 2nd month of the following August 1 program year unless suspended or revoked before that date.

SECTION 45. 287.17 (7) (b) of the statutes is amended to read:

287.17 (7) (b) *Reports and records.* ~~No later than August 1, 2010,~~ the first day of the 2nd month of each program year, beginning August 1, 2010, a registered collector shall report to the department the total weight of eligible electronic devices collected in this state during the preceding program year and the names of all registered recyclers to whom the collector delivered eligible electronic devices. A registered collector shall maintain

records of the sources of eligible electronic devices it collects and of the registered recyclers to whom the collector delivers eligible electronic devices.

SECTION 46. 287.17 (8) (a) 1. (intro.) of the statutes is amended to read:

287.17 (8) (a) 1. (intro.) ~~Beginning on January 1, 2010, no~~ No person may operate as a recycler receiving eligible electronic devices on behalf of a manufacturer who is registered under sub. (3) unless the person is registered under this paragraph. A person shall register by submitting, ~~no later than January 1, 2010, and annually,~~ no later than August 1 beginning in 2010 the first day of the 2nd month of each program year, to the department a registration, using a form prescribed by the department, that includes all of the following:

SECTION 47. 287.17 (8) (a) 2. of the statutes is amended to read:

287.17 (8) (a) 2. A complete registration is effective on receipt by the department and is valid until the first day of the 2nd month of the following ~~August 1~~ program year unless suspended or revoked before that date.

SECTION 48. 287.17 (8) (b) 1. of the statutes is amended to read:

287.17 (8) (b) 1. No later than ~~August 1~~ the first day of the 2nd month of each program year, ~~beginning with August 1, 2010,~~ a registered recycler shall report to the department the total weight of eligible electronic devices collected in this state that the recycler received for recycling on behalf of a manufacturer registered under sub. (3) during the preceding program year and the name of the manufacturer.

SECTION 49. 287.17 (8) (b) 2. (intro.) of the statutes is amended to read:

287.17 (8) (b) 2. (intro.) No later than ~~February 1~~ the first day of the 8th month of each program year, ~~beginning in 2011,~~ a registered recycler shall report to the department all of the following:

SECTION 50. 287.17 (9) of the statutes is amended to read:

287.17 (9) **RETAILERS.** Beginning on July 1, 2010, a retailer who sells covered electronic devices for use by households or covered schools shall provide to purchasers information describing how eligible electronic devices can be collected and recycled and a description of the prohibitions in s. 287.07 (5) (a). A retailer may satisfy this requirement by providing a toll-free number for receiving the information and a description of how to access the department's Internet site under sub. (10) (a). A retailer who sells through a catalog may provide the information in the catalog. A retailer who sells through the Internet may provide the information on its Internet site.

SECTION 51. 287.17 (9m) of the statutes is amended to read:

287.17 (9m) **RECORD KEEPING AND INSPECTION.** A person subject to sub. (3), (7), (8), or (9) shall maintain

records related to the program under this section and reports required under this section for at least 3 program years. The department may inspect records of a person subject to sub. (3), (7), (8), or (9) that are related to the program under this section.

SECTION 52. 287.17 (10) (a) of the statutes is amended to read:

287.17 (10) (a) *Internet site; manufacturers.* The department shall maintain an Internet site on which the department lists the names of manufacturers who are registered under sub. (3) and the names of the brands listed in the manufacturers' registrations. The department shall update the information on the Internet site promptly upon receipt of a new or revised registration. The department shall include on the Internet site a statement that this section applies only to covered electronic devices sold for household or covered school use and that the list of manufacturers is not a list of manufacturers qualified to sell video display devices, computers, or printers for industrial, commercial, or other nonhousehold or nonschool uses. The department shall also include on the Internet site the contact information provided by manufacturers under sub. (3) (a) 2.

SECTION 53. 287.17 (10) (c) 1. d. of the statutes is amended to read:

287.17 (10) (c) 1. d. The multiplier for the weight of eligible electronic devices collected from households or covered schools in rural counties under sub. (4) (f).

SECTION 54. 287.17 (10) (d) (intro.) of the statutes is amended to read:

287.17 (10) (d) *Annual report.* (intro.) Before December 1 of each program year, ~~beginning in 2012~~ prior to the transition year, and before June 1 of each program year beginning with the transition year, the department shall provide a report on the program under this section to the legislature under s. 13.172 (2) and to the governor. The department shall include all of the following in the report:

SECTION 55. 287.17 (10) (fm) of the statutes is created to read:

287.17 (10) (fm) *Rural electronics recycling grants.* The department shall create and administer a program to provide grants from the appropriation under s. 20.370 (4) (hr), if sufficient program revenue is available, to expand electronics recycling and recovery programs in underserved areas of the state. Grants under this paragraph may be provided to local units of government, tribal governing bodies, businesses, and nonprofit entities, including religious nonprofit entities, for the purpose of hosting a collection site or collection event or series of collection sites or collection events. Grants provided under this paragraph may be used to rent space or acquire materials necessary to host the collection site or collection event, advertise for the site or event, cover staff expenses for the site or event, including administrative costs, provide for the transportation of collected devices to a registered

recycler, and cover other expenses allowed by the department. A recipient of a grant under this paragraph shall provide matching funds equal to at least 20 percent of the cost of the project for which the grant is provided. The department shall award grants under this paragraph in the following order of priority:

1. Projects that will take place in a county that has no permanent collection site registered under sub. (7) (a) and did not have a collection event registered under sub. (7) (a) during the previous program year.

2. Projects that will take place in a county that has no permanent collection site registered under sub. (7) (a) that is open to all residents.

3. Projects that will take place in a municipality with a population of 5,000 or more that does not have a permanent collection site registered under sub. (7) (a).

4. Projects that do not meet the requirements under subds. 1. to 3., at the determination of the department.

SECTION 56. 287.17 (10) (j) of the statutes is amended to read:

287.17 (10) (j) *Audits.* The department may perform or contract for the performance of an audit of the activities of a registered collector or registered recycler. If the department performs or contracts for the performance of an audit of a collector or recycler during the first 3 program years in which the collector or recycler is registered under sub. (7) or (8) (a), the collector or recycler shall pay 25 percent of the cost of the audit. If the department performs or contracts for the performance of an audit of a collector or recycler after the first 3 program years in which the collector or recycler is registered, the collector or recycler shall pay 50 percent of the cost of the audit.

SECTION 57. 287.17 (10) (k) of the statutes is amended to read:

287.17 (10) (k) *Modification of registration fee.* The department may modify the registration ~~fee~~ fees under sub. (4) (b) 1. ~~and 2.~~ and (be) 1. and 2. by rule. ~~The department may not promulgate a rule under this paragraph that takes effect before October 1, 2011.~~
