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MassRecycle

is a 501(c)3 nonprofit organization dedicated to promoting and realizing the vital environmental, social and economic benefits created by reducing, reusing, and recycling waste materials, and by increasing the utilization of recycled products.

June 14, 2012

Senate Committee on Ways and Means
Room 212
State House
Boston, MA 02133

To Senator Brewer and the Senate Committee on Ways and Means:

MassRecycle, the 501c3 statewide coalition of all 351 municipalities, recycling businesses, institutions, organizations and individuals dedicated to increasing recycling and waste reduction in the Commonwealth, is very disappointed that the current draft of SB 2078, *An Act Relative to Information Technology Producer Responsibility*, fails to take into account comments previously submitted by an alliance of recycling experts and recycling service providers spearheaded by MassRecycle, Product Stewardship Institute, Clean Water Action, and the South Shore Recycling Collaborative. The current draft of SB 2078 sets out goals and guidelines that are actually detrimental to the state of electronics recycling in the Commonwealth and to the existing electronics recycling job infrastructure in the state.

MassRecycle has long been advocating for the passage of legislation establishing extended producer responsibility for electronic waste in the state. Such legislation will increase the reuse and recycling of electronic equipment, saving our citizens millions of dollars and also creating additional recycling jobs as more materials are sent to recycling companies. SB 2078, in its current form, does not do either.

As the organization representing the companies and individuals on the ground floor, actually providing the recycling services and expertise, MassRecycle strongly feels that the statewide collection goal set forth in SB 2078 is too low. MassDEP data shows that we have already attained 3 to 5 lbs. per capita electronics recycling rate in the Commonwealth. Setting a goal of 4 lbs. per capita clearly does not set the bar high or provide any legislative incentive to increase the per capita electronics recycling rate.

Couple this with the recent edits to the Bill allowing double counting of materials diverted to reuse or sourced from municipal sources, and the covered producers can conceivably underperform without penalty under the 4 lbs. per capita. Although this double counting was probably intended to give some

46 Pearl Street
Cambridge, MA 02139
(617) 338-0244
www.massrecycle.org

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acknowledgement to the existing robust and unique municipal electronics recycling infrastructure in Massachusetts, it in reality opens a big gaping hole for producers to stand pat or even backslide.

To properly increase electronics recycling in the state, and thus increase cost savings for municipalities and citizens while increasing recycling jobs, the Bill must set a higher target goal to drive the system, and the Bill also must include a more appropriate incentive to protect the existing electronics recycling infrastructure and related jobs that exist in our state.

Further, the Bill needs to take into account the other concerns MassRecycle previously submitted to ensure healthy and efficient electronic recycling under the new system. The Bill must allow for fair competition between electronic recycling companies by not favoring a single certification and allowing for additional, well-recognized certifications, such as R2. And the Bill must provide MassDEP with the wherewithal via appropriate funding to administer and enforce the programs that result from the Bill without too many prescriptive guidelines that would hamper MassDEP from adjusting the program to reflect real world trends and the ever-changing face of technology.

With those particular concerns in mind, MassRecycle urges Senate Ways and Means to re-review the comments previously submitted, attached below. Passing SB 2078 in its current form will not provide the necessary legislative pressure or system needed to increase reuse and recycling of electronics in the Commonwealth. MassRecycle strongly urges Senate Ways and Means not to pass SB 2078 in its existing form without first amending the Bill to address the concerns aired.

Sincerely,

Edward Hsieh
Executive Director

Original points commented on by the alliance:

1. Convenient collection for Massachusetts citizens. To maintain current levels of convenience, this bill should require that producers accept covered electronic equipment into their program from any public or private entity providing electronics collection service as of December 31, 2011.

Rationale: Since April 2000, when Massachusetts enacted a ban on the disposal of cathode ray tubes (CRT), more than 250 Massachusetts communities – as well as numerous businesses – have collected scrap electronic equipment. This extensive collection network has resulted in convenient collections for residents. Although new infrastructure will be created by SB 2078, we want to ensure that any municipality that wants to continue to collect covered electronic equipment can continue to do so and have the cost of transportation, and recycling covered by producers.

2. Higher collection target. To improve upon current levels of e-waste recycling, this bill should have a collection goal of at least 6 pounds per person rather than the 4 pounds per person in the current bill. Additionally, the Department of Environmental Protection should be given the authority to adjust the per-capita collection goal up or down as needed by the amount they deem appropriate rather than be limited by the overly prescriptive language in the current bill.

Rationale: One of the main goals of this legislation is to increase recycling. Since municipal programs are already collecting 3-5 pounds of e-waste per person, a target of 4 pounds would not increase recycling. Six pounds is a target that would increase recycling and would be easily achievable. We know from our collection data that providing free collection at municipal programs can double the amount that is received for recycling. With retailers such as Best Buy collecting in addition, we can expect the amount collected to rise even higher. Other states with similar populations have collected six pounds per person the first year of their e-waste law implementation.

3. Limit definition of “consumer” to households and small businesses. The bill should define “consumer” as any household, small business, or similar entity returning no more than 7 items for recycling. Support for Amendments to SB 2078 Page 2

Rationale: Serving Massachusetts residents, small businesses, and similar underserved populations should be the top priority of this legislation. Data from 2010 show that the combined residential and business sectors recycled over 9 lbs per capita, and disposed over 21 lbs per capita. The collection target referenced in #2 (above) is scaled to achieve recycling of a significant portion of the waste stream from the residential and small business sectors, and would need to be raised much higher if scrap electronics from all sources were included.

4. Greater flexibility in certifying electronics recyclers. The bill should allow recyclers to provide services to producers if they are certified by either the e-Stewards or Responsible Recycling (R2) third-party certifications. The bill should delete reference to simply “meeting the standards” of either of these third-party organizations. In addition, the bill should allow the Department of Environmental Protection to add new certifications in the future if deemed to meet or exceed the environmental and health protections incorporated in the e-Stewards and R2 standards.

Rationale: Electronic products collected and recycled under this law should be managed to protect human health and the environment. Both the e-Stewards and R2 certifications are generally recognized as meeting this level of protection. Limiting the certification requirement to only the e-Stewards standard would limit the number of recyclers that can operate in Massachusetts, potentially increasing the cost of recycling.

5. Authorize DEP hiring of electronics program staff. To ensure that the Department of Environmental Protection can effectively regulate, administer, and enforce the provisions of this bill, fees collected from the registration of electronics producers should be placed in an expendable trust, and the Department of Environmental Protection authorized to use these funds to hire additional staff as-needed to fulfill their requirements under the legislation.

Rationale: Oversight of the program by the Department of Environmental Protection is critical to ensure full and fair enforcement across all companies. The Department must have adequate staff resources to fulfill its responsibilities as outlined in the legislation. It is common practice in other state producer responsibility laws to use funds collected through the program to support program oversight. DEP staffing levels are 30% lower than they were ten years ago due to budget cuts. Secure funding is necessary for this program to be successful.

6. Greater DEP authority regarding producer plans and scope of covered products. To keep pace with changing consumer products, the Department of Environmental Protection should be provided with the authority to approve or reject producer plans and revise the scope and collection targets of covered products every two years, if warranted.

Rationale: The Department should be able to reject producer plans if they do not meet the requirements of the statute. This authority is common practice in producer responsibility laws in other states. The Department should also have the authority to revise the scope and collection targets of covered products as needed, with stakeholder input, to ensure that the program evolves as consumer electronic devices inevitably change.