

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2008**

No. 21

Introduced by Council Members de Blasio, McMahon, the Speaker (Council Member Quinn) and Council Members Comrie, Dickens, Fidler, Gentile, Katz, Koppell, Recchia Jr., Sanders Jr., Gerson, Jackson, James, Stewart, Vallone Jr., Weprin, Martinez, Yassky, Liu, Nelson, Foster, Monserrate, Rivera, Garodnick, Mealy, Sears and Lappin.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to electronic equipment collection standards.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The purpose of this chapter is to require that manufacturers of covered electronic waste comply with specific electronic waste collection standards. The Council finds that the setting of performance standards is necessary to insure that electronic equipment is collected in appropriate amounts. The three-year period before penalties are imposed for failure to meet the prescribed performance standards gives the industry and the city ample time and data to evaluate, and if necessary, adjust the prescribed performance standards.

§2. Subdivision d(4) of section 16-423 of chapter four-a of the administrative code of the city of New York is amended to read as follows:

4. a description of how the manufacturer will plan to [collect covered electronic equipment to the maximum extent feasible] *attain the performance standards established in paragraph a of section 16-424 of this chapter;*

§3. Subdivision h.2 of section 16-423 of chapter four-a of the administrative code of the city of New York is amended to read as follows:

h.2 At any time, the department may require resubmission of a proposed modification where it determines that the manufacturer is not *in compliance with the collection standards as set forth in section 16-424 of this chapter* [collecting covered electronic equipment to the maximum extent feasible as required by this chapter]. The department shall approve or disapprove such modification in accordance with paragraph one of this subdivision.

§4. Section 16-423 of chapter four-a of the administrative code of the city of New York is amended by adding a new subdivision i and renumbering the section to read as follows:

i. Notwithstanding the provisions of section 16-423 of this chapter, any person who becomes a manufacturer of covered electronic equipment subsequent to the effective date of this section may include within a submitted electronic waste management plan a proposed schedule for compliance with the minimum collection standards set forth in section 16-424 beyond the respective compliance dates set forth in such section. The commissioner may approve such proposed schedule or may approve a modification to such proposed schedule that provides for a reasonable compliance time beyond that provided for in such section.

[i.] j. All decisions of the department pursuant to this section shall be made public.

§5. Section 16-424 of chapter four-a of the administrative code of the city of New York is amended to read as follows:

§16-424 Performance Standards. *a. A manufacturer shall demonstrate whether, pursuant to its electronic waste management plan, it is collecting for recycling or reuse at least its share of covered electronic equipment [to the maximum extent feasible]. Such manufacturer's share of covered electronic equipment is determined by applying the following minimum collection standard percentage by the average annual sales of the manufacturer's covered electronic equipment in the city, reported by weight, during the previous three calendar years; by July 1, 2012, the minimum collection standard is twenty-five percent; by July 1, 2015, the minimum collection standard is forty-five percent; by July 1, 2018, the minimum collection standard is sixty-five percent.*

b. For purposes of calculating achievement of the minimum collection standard specified in paragraph a of this subdivision, a manufacturer may count the collection of a single item of covered

electronic equipment as twice its weight when that item is donated free of charge for reuse to the New York city department of education, or to any not-for-profit corporation, as defined in subparagraphs five or seven of subdivision a of section one hundred two of the New York not-for-profit corporation law, a principal mission of which is to assist low-income children or families living in city. To qualify for the donation reuse credit under this subdivision, the covered electronic equipment must be: (a) no older than three years old, (b) in full working condition, and (c) accepted as a donation by the recipient in writing.

c. The commissioner may grant an annual waiver, in whole or in part, from the minimum collection standards set forth in subdivision a of this section where a manufacturer who has an approved electronic waste management plan has demonstrated to the commissioner's satisfaction that such minimum collection standards could not be met despite the best efforts of the manufacturer because the manufacturer has substantially increased the amount of covered electronic equipment sold within the city over the three-year period during which compliance with subdivision a of this section is to be measured and it was not practicable to meet the applicable minimum collection standard.

§6. Subdivision d of section 16-427 of chapter four-a of the administrative code of the city of New York is amended to add a new section 5 to read as follows:

5. Beginning July first, two thousand twelve, a manufacturer who has not met the performance standards set forth in subdivision a of section 16-424 of this chapter shall be liable for a civil penalty of fifty thousand dollars for each percentage point that said manufacturer falls below the performance standards, and shall also submit a modified electronic waste management plan to the department with details explaining how said manufacturer intends to comply with the performance standards. The department shall review such modified electronic waste management plan as provided in subdivision h of section 16-423 of this chapter.

§7. Subdivision a of section 16-428 of chapter four-a of the administrative code of the city of New York is amended to read as follows:

a. On or before July first, two thousand nine, and annually on or before July first thereafter, a manufacturer that offers any covered electronic equipment for sale in the city shall submit an annual report to the department that includes the following information for the prior calendar year: 1. any approved modification to the manufacturer's electronic waste management plan; 2. sales data for the manufacturer's

covered electronic equipment sold in the city; 3. the quantity of covered electronic equipment collected for recycling or reuse in this city, expressed both in terms of the total weight of such covered electronic equipment and as a percentage of the average annual sales of the manufacturer's covered electronic equipment in the city, reported by weight, during the previous three calendar years, and categorized by the type of covered electronic equipment collected pursuant to such manufacturer's electronic waste management plan and further categorized, to the extent possible, by the quantity of such covered electronic equipment collected from individuals and government entities; 4. the weight of orphan waste collected, categorized by the type of covered electronic equipment collected, pursuant to such manufacturer's electronic waste management plan; 5. information on the manufacturer's compliance with the *performance standards established in section 16-424 of this chapter* [goal of collecting covered electronic equipment to the maximum extent feasible]; 6. information on the end markets and electronic recyclers utilized by the manufacturer, including details on the methods of collection, handling and recycling or reuse of covered electronic equipment used by electronic recyclers, details on any disassembly or physical recovery operation to be used, the locations of any such operations, and details on the manufacturer's compliance with applicable laws and regulations relating to the disposition, recycling and reuse of covered electronic equipment and orphan waste; 7. examples of how the manufacturer has informed residents and businesses of the city about the manufacturer's plan for the collection, handling and recycling or reuse of covered electronic equipment and orphan waste; 8. the number of visits to the internet website and calls to the toll-free telephone numbers established by the manufacturer's electronic waste management plan; and 9. any other information required by department rules.

§8. This local law shall take effect immediately.

The City of New York, Office of the City Clerk, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on March 26, 2008 disapproved by the Mayor on April 16, 2008 and repassed by the Council Members on May 14, 2008 and said law is adopted notwithstanding the objection of the Mayor.

Hector L. Diaz, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 127, I hereby certify that the enclosed Local Law (Local Law 021 of 2008, Council Int. No. 729) contains the correct text and:

Received the following vote at the meeting of the New York City Council on March 26, 2008:

47 For, 4 Against, 0 Not Voting

Was disapproved by the Mayor on April 16, 2008

Was returned to the City Clerk on April 16, 2008

Was reconsidered by the Council on May 14, 2008;

and received the following vote of the Council Members at a meeting of the Council on May 14, 2008:

45 For, 3, Against, 0 Not Voting.

Jeffrey D. Friedlander, Acting Corporation Counsel.