

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1030

Short Title: Electronics Recycling and Job Creation. (Public)

Sponsors: Senators Cowell; Berger of Franklin, Bingham, Clodfelter, Graham, Kinnaird, and Malone.

Referred to: Finance.

March 24, 2005

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH A RECYCLING PROGRAM FOR ELECTRONIC
2 DEVICES AND TO IMPOSE A TAX ON THOSE DEVICES IN ORDER TO
3 FUND THE PROGRAM AND TO PROVIDE LOCAL GOVERNMENTS WITH
4 FUNDS TO ENABLE THEM TO RECYCLE ELECTRONIC DEVICES.
5

6 Whereas, the electronics waste stream is growing rapidly in volume and
7 complexity and can introduce toxic heavy metals into solid waste landfills; and

8 Whereas, it is in the best interests of North Carolina's citizens to have
9 convenient and free access to recycling services for their discarded electronics; and

10 Whereas, local government-operated programs are an efficient way to divert
11 electronics from disposal and to provide recycling services to citizens across the State;
12 and

13 Whereas, the development of local programs is hindered by the high costs of
14 marketing collected electronic materials; and

15 Whereas, no other system currently exists, either provided by electronics
16 manufacturers, retailers, or others, to adequately serve North Carolinians and to divert
17 large quantities of electronics from disposal; and

18 Whereas, it is already illegal for businesses to dispose of cathode ray tubes in
19 landfills in North Carolina, but small- and medium-sized businesses lack practical
20 electronics recycling options; and

21 Whereas, the recycling of electronic wastes recovers valuable materials for
22 reuse and will create jobs and expand the tax base in North Carolina; Now, therefore,
23 The General Assembly of North Carolina enacts:

24 **SECTION 1.** Chapter 105 of the General Statutes is amended by adding a
25 new Article to read:

"Article 5G.

"Electronics Recycling Tax.

26
27
28 **§ 105-187.60. Definitions.**

1 The definitions in G.S. 105-164.3 apply to this Article, except that the term 'sale'
2 does not include lease or rental. As used in this Article, 'electronic device' means central
3 processing units, whether sold alone or with accessories; computer monitors; laptop
4 computers; televisions with video displays having a viewable area greater than nine
5 inches when measured diagonally; and computer printers and multifunction printers.

6 **"§ 105-187.61. Tax imposed.**

7 A privilege tax is imposed on an electronic device retailer on a percentage basis of
8 the sales price of each new electronic device sold at retail by the retailer. An excise tax
9 is imposed on a new electronic device purchased outside the State for storage, use, or
10 consumption in this State. The rate of the privilege tax and the excise tax is one percent
11 (1%) of the sales price of each new electronic device. These taxes are in addition to all
12 other taxes.

13 **"§ 105-187.62. Administration.**

14 The privilege tax this Article imposes on an electronic device retailer is an additional
15 State sales tax, and the excise tax this Article imposes on the storage, use, or
16 consumption of a new electronic device in this State is an additional State use tax.
17 Except as otherwise provided in this Article, these taxes shall be collected and
18 administered in the same manner as the State sales and use taxes imposed by Article 5
19 of this Chapter. As under Article 5 of this Chapter, the additional State sales tax paid
20 when a new electronic device is sold at retail is a credit against the additional State use
21 tax imposed on the storage, use, or consumption of the same electronic device.

22 **"§ 105-187.63. Exemptions and refunds.**

23 Except for the exemption provided in G.S. 105-164.13(17), the exemptions in
24 G.S. 105-164.13 do not apply to the taxes imposed by this Article. The refunds allowed
25 in G.S. 105-164.14 do not apply to the taxes imposed by this Article.

26 **"§ 105-187.64. Use of tax proceeds.**

27 The Secretary shall distribute the taxes collected under this Article, less the
28 Department of Revenue's allowance for administrative expenses, in accordance with this
29 section. The Secretary may retain the Department's cost of collection, not to exceed two
30 hundred twenty-five thousand dollars (\$225,000) a year, as reimbursement to the
31 Department. Retailers may retain up to two percent (2%) of the collected tax for
32 administrative costs related directly to the tax. Each quarter, the Secretary shall credit
33 the net tax proceeds to the Electronics Recycling Account.

34 **"§§ 105-187.65 through 105-187.69: Reserved for future codification purposes."**

35 **SECTION 2.** Article 9 of Chapter 130A of the General Statutes is amended
36 by adding a new Part to read:

37 "Part 2E. Electronics Recycling Act of 2005.

38 **"§ 130A-309.90. Title.**

39 This Part may be cited as the 'North Carolina Electronics Recycling Act of 2005'.

40 **"§ 130A-309.91. Definition.**

41 As used in this Part, 'electronic device' means central processing units, whether sold
42 alone or with accessories; computer monitors; laptop computers; televisions with video
43 displays having a viewable area greater than nine inches when measured diagonally; and
44 computer printers and multifunction printers.

1 **"§ 130A-309.92. Management of electronic devices; eligibility for distributions.**

2 (a) A county that amends its solid waste management plan adopted pursuant to
3 G.S. 130A-309.09A to include a section on recycling electronic devices and that
4 implements an electronic devices recycling program is eligible to receive distributions
5 from the Electronics Recycling Account under G.S. 130A-309.94. A municipality is
6 eligible to receive distributions from the Electronics Recycling Account if the county in
7 which the municipality is located fails by January 1, 2008, to amend its solid waste
8 management plan to include a section on recycling electronic devices or fails to
9 implement an electronic devices recycling program, and if the municipality amends its
10 solid waste management plan adopted pursuant to G.S. 130A-309.09A to include a
11 section on recycling electronic devices and implements an electronic devices recycling
12 program.

13 (b) A county or a municipality that receives distributions from the Electronics
14 Recycling Account shall not charge a fee for the recycling of electronic devices.

15 (c) A unit of local government may contract with another unit of local
16 government or a private entity in accordance with Article 15 of Chapter 153A of the
17 General Statutes to provide for the recycling of discarded electronic devices.

18 **"§ 130A-309.93. Use of distributions.**

19 A county or a municipality that is eligible under G.S. 130A-309.92 to receive
20 distributions from the Electronics Recycling Account shall use distributions exclusively
21 for activities directly related to electronic devices recycling and may use distributions
22 from the Electronics Recycling Account to offset any of the following:

- 23 (1) Collection, storage, and transportation of discarded electronic devices.
- 24 (2) Recycling processing fees for electronic devices.
- 25 (3) Costs of educating citizens about its electronic devices recycling
26 program.
- 27 (4) Costs of capital equipment and buildings used exclusively for
28 electronic devices recycling when these costs were incurred no later
29 than January 1, 2003, are documented, and were incurred to establish a
30 permanent, year-round electronic devices collection program available
31 to the public.

32 **"§ 130A-309.94. Electronics Recycling Account.**

33 (a) The Electronics Recycling Account is established within the Department. The
34 Account consists of revenue credited to the Account from the proceeds of the
35 electronics recycling tax imposed by Article 5G of Chapter 105 of the General Statutes.

36 (b) Subject to subsection (d) of this section, funds in the Account shall be
37 allocated and used as follows:

- 38 (1) Ninety percent (90%) for distribution to counties and municipalities
39 that are eligible to receive distributions under G.S. 130A-309.92.
- 40 (2) Six percent (6%) for supplemental grant funding to units of local
41 government to help initiate local programs, enhance existing local
42 electronic devices recycling services, and encourage regionalization of
43 local electronic devices programs.

1 (3) Four percent (4%) to the Department for the administration of the
2 distributions from the Electronics Recycling, the supplemental grants
3 under subdivision (2) of this subsection, the certification of electronic
4 devices recycling companies, the evaluation of reports submitted by
5 counties and municipalities under G.S. 130A-309.96(a), and the
6 writing of an annual report by the Department under G.S. 130A-309.97
7 on the management of discarded electronic devices.

8 (c) Distributions from the Electronics Recycling Account shall be made
9 quarterly. Distributions from the Electronic Recycling Account to counties and
10 municipalities shall, subject to subsection (f) of this section, be made on the basis of the
11 per capita share of the State's population of the county or municipality receiving a
12 distribution.

13 (d) If distributions to counties and municipalities are unclaimed due to delays by
14 counties and municipalities in becoming eligible for distributions under
15 G.S. 130A-309.92 or due to underutilization of the distributions, as determined by the
16 Department, the Department may use up to seventy-five percent (75%) of these
17 unclaimed distributions for supplemental grants under subdivision (2) of subsection (b)
18 of this section and for providing technical assistance and education efforts to support the
19 program under this Part.

20 (e) Each county and municipality that is eligible to receive distributions from the
21 Account shall develop a method of fully accounting for its use of the distribution it
22 receives. No later than September 15 of each year, counties and municipalities that are
23 eligible to receive distributions shall submit to the Department an annual full-cost
24 accounting of their electronic devices recycling program on a form provided by the
25 Department.

26 (f) A county or municipality that uses less than ninety percent (90%) of its
27 distribution for the previous fiscal year shall receive a distribution for the next fiscal
28 year that is reduced by the amount of funds that remain available to it from the previous
29 year's distribution. A county or municipality that uses ninety percent (90%) or more of
30 its distribution for the previous fiscal year shall receive its full annual distribution the
31 next fiscal year.

32 **"§ 130A-309.95. Effect of local ordinance.**

33 This Part preempts any local ordinance regarding the management of discarded
34 electronic devices to the extent, and only to the extent, that the local ordinance is
35 inconsistent with this Part or the rules adopted pursuant to this Part.

36 **"§ 130A-309.96. Duties of Department.**

37 (a) Administration of Distributions from Account. – The Department shall
38 administer the distribution of funds in the Electronics Recycling Account to counties
39 and municipalities that are eligible for distributions under G.S. 130A-309.92. The
40 Department shall develop and implement a process for each county and municipality
41 that receives a distribution to report to the Department on its use of these funds during
42 the previous fiscal year so that the Department is able to determine the amount of funds
43 to distribute to the county or the municipality under G.S. 130A-309.94(f) for the next
44 fiscal year.

1 **(b) Local Government Assistance.** – The Department shall provide assistance to
2 units of local government developing electronic devices recycling programs. As part of
3 this assistance, the Department shall assist with the coordination of regional recovery
4 efforts for discarded electronic devices.

5 **(c) State Term Recycling Contract.** – The Department shall assist the Department
6 of Administration in establishing a State term recycling contract with electronics
7 recycling processors that may be used by units of local government.

8 **(d) Supplemental Grant Program.** – The Department shall develop and implement
9 a supplemental grant program, utilizing the funds allocated pursuant to
10 G.S. 130A-309.94(b)(2), to encourage and enhance the establishment of electronic
11 devices recycling programs.

12 **(e) Training for Local Electronic Devices Recycling Programs.** – The
13 Department shall develop and offer a program or shall approve for use a program
14 developed and offered by other parties to train persons to operate an effective electronic
15 devices recycling program. This training program shall address the requirements and
16 procedures for counties and municipalities to become eligible for distributions from the
17 Electronics Recycling Account.

18 **"§ 130A-309.97. Annual report.**

19 The Department shall include in the report to be delivered to the Environmental
20 Review Commission on or before 15 January of each year pursuant to
21 G.S. 130A-309.06(c) a description of the management of discarded electronic devices in
22 the State for the fiscal year ending the preceding 30 June. The description of the
23 management of electronic devices shall include all of the following information:

- 24 **(1)** An evaluation of the implementation of the Electronics Recycling Act
25 of 2005.
- 26 **(2)** The amount of taxes collected and distributed under G.S. 105-187.61
27 during the period covered by the report.
- 28 **(3)** The beginning and ending balances of the Electronics Recycling
29 Account for the period covered by the report and a list of distributions
30 made from the Account for the period.
- 31 **(4)** Any other information the Department considers helpful in
32 understanding the problem of managing electronic devices.

33 **"§§ 130A-309.98 through 130A-309.99:** Reserved for future codification purposes."

34 **SECTION 3.** G.S. 130A-309.06(c) is amended by adding a new subdivision:

35 "(14) A description of the management of electronics in the State, as
36 required by G.S. 130A-309.97."

37 **SECTION 4.** G.S. 130A-309.96, as enacted by Section 2 of this act, is
38 amended by adding a new subsection to read:

39 "(f) Electronics Recyclers Certification. – The Department shall establish a
40 program to certify electronic devices recycling companies that provide services to
41 counties and municipalities that are eligible for distributions from the Electronics
42 Recycling Account to ensure that the companies are in compliance with all applicable
43 laws and requirements and are handling discarded electronic devices and electronic
44 materials properly to reduce adverse environmental and public health impacts."

1 **SECTION 5.** G.S. 130A-309.92, as enacted by Section 2 of this act, is
2 amended by adding a new subsection to read:

3 "(d) A county or a municipality that is otherwise eligible under this section to
4 receive distributions from the Electronics Recycling Account shall lose its eligibility
5 under this section unless the county or the municipality uses an electronic devices
6 recycler certified by the Department under G.S. 130A-309.96. A county or municipality
7 that loses its eligibility under this subsection may regain its eligibility after it comes into
8 compliance with this subsection."

9 **SECTION 6.** G.S. 130A-309.10(f) reads as rewritten:

10 "(f) No person shall knowingly dispose of any of the following solid wastes in
11 landfills:

- 12 (1) Repealed by Session Laws 1991, c. 375, s. 1.
- 13 (2) Used oil.
- 14 (3) Yard trash, except in landfills approved for the disposal of yard trash
15 under rules adopted by the Commission. Yard trash that is source
16 separated from solid waste may be accepted at a solid waste disposal
17 area where the area provides and maintains separate yard trash
18 composting facilities.
- 19 (4) White goods.
- 20 (5) Antifreeze (ethylene glycol).
- 21 (6) Aluminum cans.
- 22 (7) Whole scrap tires, as provided in G.S. 130A-309.58(b). The
23 prohibition against landfilling whole tires applies to all whole
24 pneumatic rubber coverings, but does not apply to whole solid rubber
25 coverings.
- 26 (8) Lead-acid batteries, as provided in G.S. 130A-309.70.
- 27 (9) Electronic devices as defined in G.S. 130A-309.91."

28 **SECTION 7.** G.S. 130A-309.10(f1) reads as rewritten:

29 "(f1) No person shall knowingly dispose of any of the following solid wastes by
30 incineration in an incinerator for which a permit is required under this Article:

- 31 (1) Antifreeze (ethylene glycol) used solely in motor vehicles.
- 32 (2) Aluminum cans.
- 33 (3) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.
- 34 (4) White goods.
- 35 (5) Lead-acid batteries, as provided in G.S. 130A-309.70.
- 36 (6) Electronic devices as defined in G.S. 130A-309.91."

37 **SECTION 8.** Sections 1, 2, 3, and 8 of this act become effective January 1,
38 2006. Section 4 through Section 7 of this act become effective January 1, 2009. The
39 Department of Environment and Natural Resources shall make distributions to counties
40 and municipalities under Part 2E of Article 9 of Chapter 130A of the General Statutes,
41 as enacted by Section 2 of this act, beginning on 1 July 2006.