

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 819*
Committee Substitute Favorable 5/10/07
Senate Agriculture/Environment/Natural Resources Committee Substitute
Adopted 7/10/08

Short Title: Electronic Recycling Amends/Add TVs.

(Public)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE REQUIREMENTS GOVERNING MANAGEMENT OF
DISCARDED COMPUTER EQUIPMENT, TO PROVIDE FOR MANAGEMENT
OF DISCARDED TELEVISIONS, TO DELAY THE EFFECTIVE DATE UNTIL 1
JANUARY 2010, AND TO MAKE OTHER CONFORMING AND TECHNICAL
CHANGES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW
COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes reads as
rewritten:

"Part 2E. Discarded Computer Equipment and Television Management.

"§ 130A-309.90. Findings.

The General Assembly ~~makes the following findings:~~ finds that:

- (1) The computer equipment and television waste stream is growing rapidly in volume and complexity and can introduce toxic materials into solid waste landfills.
- (2) It is in the best interests of the citizens of this State to have convenient, simple, and free or low-cost access to recycling services for discarded computer ~~equipment.~~ equipment and televisions.
- (3) Collection programs operated by manufacturers, and local government and nonprofit agencies are an efficient way to divert discarded computer equipment and televisions from disposal and to provide recycling services to all citizens of this State.
- (4) The development of local and nonprofit collection programs is hindered by the high costs of recycling and transporting discarded computer ~~equipment.~~ equipment and televisions.

- 1 (5) No ~~other~~ comprehensive system currently exists, either provided by
2 electronics manufacturers, retailers, or others, to adequately serve all
3 citizens of the State and to divert large quantities of discarded
4 computer equipment and televisions from disposal.
- 5 (6) Manufacturer responsibility is an effective way to ensure that
6 manufacturers of computer equipment take part in a solution to the
7 electronic waste problem.
- 8 (7) The recycling of certain discarded computer equipment and televisions
9 recovers valuable materials for reuse and will create jobs and expand
10 the tax base of the State.
- 11 (8) While some computers and computer monitors can be refurbished and
12 reused and other consumer electronics products contain valuable
13 materials, some older and bulkier consumer electronic products,
14 including some televisions, may not contain any valuable products but
15 should nevertheless be recycled to prevent the release of toxic
16 substances to the environment.
- 17 (9) For the products covered by this Part, differences in product life
18 expectancy, market economics, residual value, and product portability
19 necessitate different approaches to recycling.
- 20 (10) In order to ensure that end-of-life computer equipment and televisions
21 are responsibly recycled, to promote conservation, and to protect
22 public health and the environment, a comprehensive and convenient
23 system for recycling and reuse of certain electronic equipment should
24 be established on the basis of shared responsibility among
25 manufacturers, retailers, consumers, and the State.

26 **"§ 130A-309.91. Definitions.**

27 As used in this Part, the following definitions apply:

- 28 (1) Business entity. – Defined in G.S. 55-1-40(2a).
- 29 (2) Computer equipment. – Any desktop central processing unit, any
30 laptop computer, the monitor or video display unit for a computer
31 system, and the keyboard, mice, and other peripheral equipment.
32 Computer equipment does not include a printing device such as a
33 printer, a scanner, a combination print-scanner-fax machine, or other
34 device designed to produce hard paper copies from a computer; an
35 automobile; a television; a household appliance; a large piece of
36 commercial or industrial equipment, such as commercial medical
37 equipment, that contains a cathode ray tube, a cathode ray tube device,
38 a flat panel display, or similar video display device that is contained
39 within, and is not separate from, the larger piece of equipment, or other
40 medical devices as that term is defined under the federal Food, Drug,
41 and Cosmetic Act.
- 42 (2a) Covered device. – Computer equipment and televisions. The term does
43 not include a device that is:

- 1 a. Part of a motor vehicle or any component of a motor vehicle
2 assembled by, or for, a vehicle manufacturer or franchised
3 dealer, including replacement parts for use in a motor vehicle.
- 4 b. (i) Physically a part of or integrated within a larger piece of
5 equipment designed and intended for use in an industrial,
6 governmental, commercial, research and development, or
7 medical setting; (ii) equipment used for diagnostic, monitoring,
8 or other medical products as that term is defined under the
9 Federal Food, Drug, and Cosmetic Act; (iii) equipment used for
10 security, sensing, monitoring, antiterrorism purposes, or
11 emergency services purposes.
- 12 c. Contained within a household appliance, including, but not
13 limited to, a clothes washer, clothes dryer, refrigerator,
14 refrigerator and freezer, microwave oven, conventional oven or
15 range, dishwasher, room air conditioner, dehumidifier, air
16 purifier, or exercise equipment.
- 17 (3) Discarded computer equipment. – Computer equipment that is solid
18 waste.
- 19 (3a) Discarded television. – A television that is solid waste.
- 20 (4) Discarded computer equipment or television collector. – A municipal
21 or county government, nonprofit agency, or retailer that accepts
22 discarded computer equipment or a television from the public.
- 23 (5) Computer ~~Manufacturer~~ manufacturer. – A person ~~who~~ that
24 manufactures computer equipment sold under its own brand or label;
25 sells under its own brand or label computer equipment produced by
26 other suppliers; imports into the United States computer equipment
27 that was manufactured outside of the United States; or owns a brand
28 that it licenses to another person for use on computer equipment.
29 Manufacturer includes a business entity that acquires another business
30 entity that manufactures or has manufactured computer equipment.
- 31 (5a) Market share. – A television manufacturer's obligation to recycle
32 discarded televisions. A television manufacturer's market share is the
33 television manufacturer's prior year's sales of televisions as calculated
34 by the Department pursuant to G.S. 130A-309.95(4) divided by all
35 manufacturers' prior year's sales for all televisions as calculated by the
36 Department pursuant to G.S. 130A-309.95(4). Market share may be
37 expressed as a percentage, a fraction, or a decimal fraction.
- 38 (6) Orphan discarded computer equipment. – Any discarded computer
39 equipment for which a manufacturer cannot be identified or for which
40 the manufacturer is no longer in business and has no successor in
41 interest.
- 42 (7) Retailer. – A person ~~who~~ that sells computer equipment or televisions
43 in the State to a consumer. Retailer includes a manufacturer of
44 computer equipment or televisions that sells directly to a consumer

1 through any means, including transactions conducted through sales
2 outlets, catalogs, the Internet, or any similar electronic means, but does
3 not include a person ~~who~~ that sells computer equipment or televisions
4 to a distributor or retailer through a wholesale transaction.

5 (8) Television. – Any electronic device that contains a tuner that locks on
6 to a selected carrier frequency and is capable of receiving and
7 displaying of television or video programming via broadcast, cable, or
8 satellite, including, without limitation, any direct view or projection
9 television with a viewable screen of 9 inches or larger whose display
10 technology is based on cathode ray tube (CRT), plasma, liquid crystal
11 (LCD), digital light processing (DLP), liquid crystal on silicon
12 (LCOS), silicon crystal reflective display (SXR), light emitting diode
13 (LED), or similar technology marketed and intended for use by a
14 consumer primarily for personal purposes. The term does not include
15 computer equipment.

16 (9) Television manufacturer. – A person that: (i) manufactures for sale in
17 this State a television under a brand that it licenses or owns; (ii)
18 manufactures for sale in this State a television without affixing a
19 brand; (iii) resells into this State a television under a brand it owns or
20 licenses produced by other suppliers, including retail establishments
21 that sell a television under a brand that the retailer owns or licenses;
22 (iv) imports into the United States or exports from the United States a
23 television for sale in this State; (v) sells at retail a television acquired
24 from an importer that is the manufacturer as described in (i) of this
25 subdivision, and the retailer elects to register in lieu of the importer as
26 the manufacturer of those products; (vi) manufactures a television for
27 or supplies a television to any person within a distribution network that
28 includes wholesalers or retailers in this State and that benefits from the
29 sale in this State of the television through the distribution network; or
30 (vii) assumes the responsibilities and obligations of a television
31 manufacturer under this Part. In the event the television manufacturer
32 is one that manufactures, sells, or resells under a brand it licenses, the
33 licensor or brand owner of the brand shall not be considered to be a
34 television manufacturer under (i) or (iii) of this subdivision.

35 "**§ 130A-309.92. Responsibility for recycling discarded computer**
36 **equipment.**~~equipment and televisions.~~

37 In addition to the specific requirements of this Part, discarded computer equipment
38 and television collectors and manufacturers share responsibility for the recycling of
39 discarded computer equipment and televisions and the education of citizens of the State
40 as to recycling opportunities for discarded computer ~~equipment.~~equipment and
41 televisions.

42 "**§ 130A-309.93. Requirements for computer manufacturers.**

43 (a) Registration and Fee Required. – Each manufacturer of computer equipment,
44 before selling or offering for sale computer equipment in North Carolina, shall register

1 with the Department and, at the time of registration, shall pay an initial registration fee
2 of ten thousand dollars (\$10,000) to the Department. A computer equipment
3 manufacturer that has registered shall pay an annual renewal registration fee of one
4 thousand dollars (\$1,000) to the Department. The annual renewal registration fee shall
5 be paid each year no later than the first day of the month in which the initial registration
6 fee was paid. The proceeds of these fees shall be credited to the Computer Equipment
7 Management Account. A manufacturer of computer equipment that sells 1,000 items of
8 computer equipment or less per year is exempt from the requirement to pay the
9 registration fee and the annual renewal fee imposed by this subsection.

10 (b) Manufacturer Label Required. – A manufacturer shall not sell or offer to sell
11 computer equipment in this State unless a visible, permanent label clearly identifying
12 the manufacturer of that device is affixed to the equipment.

13 (c) Computer Equipment Recycling Plan. – Each manufacturer of computer
14 equipment shall develop and submit to the Department a plan for reuse or recycling of
15 discarded computer equipment in the State produced by the manufacturer. The
16 manufacturer shall submit a proposed plan to the Department within 120 days of
17 registration as required by subsection (a) of this section. The plan shall:

- 18 (1) Describe any direct take-back program to be implemented by the
19 manufacturer, including mail-back programs and collection events.
- 20 (2) Provide that the manufacturer will take responsibility for discarded
21 computer equipment it manufactured.
- 22 (3) Include a detailed description as to how the manufacturer will
23 implement and finance the plan.
- 24 (4) Provide for environmentally sound management practices to transport
25 and recycle discarded computer equipment.
- 26 (5) Describe the performance measures that will be used by the
27 manufacturer to document recovery and recycling rates for discarded
28 computer equipment. The calculation of recycling rates shall include
29 the amount of discarded computer equipment managed under the
30 manufacturer's program divided by the amount of computer equipment
31 sold by the manufacturer in North Carolina.
- 32 (6) Describe in detail how the manufacturer will provide for transportation
33 of discarded computer equipment at no cost from discarded computer
34 equipment collectors.
- 35 (7) Describe in detail how the manufacturer will fully cover the costs of
36 processing discarded computer equipment received from discarded
37 computer equipment collectors.
- 38 (8) Include a public education plan on the laws governing the recycling
39 and reuse of discarded computer equipment under this Part and on the
40 methods available to consumers to comply with those requirements.

41 (d) Computer Equipment Recycling Plan Revision. – A manufacturer may
42 prepare a revised plan and submit it to the Department at any time as the manufacturer
43 considers appropriate in response to changed circumstances or needs. The Department

1 may require a manufacturer to revise or update a plan if the Department finds that the
2 plan is inadequate or out-of-date.

3 (e) Payment of Costs for Plan Implementation. – Each manufacturer is
4 responsible for all costs associated with the development and implementation of its
5 plan. A manufacturer shall not collect a charge for the management of discarded
6 computer equipment at the time the equipment is discarded.

7 (f) Joint Computer Equipment Recycling Plans. – A manufacturer may fulfill the
8 requirements of this section by participation in a joint recycling plan with other
9 manufacturers. A joint plan shall meet the requirements of subsection (c) of this section.

10 (g) Annual Report. – Each manufacturer shall submit a report to the Department
11 by 1 February of each year that includes all of the following for the previous calendar
12 year:

- 13 (1) A description of the collection and recycling services used to recover
14 the manufacturer's products.
- 15 (2) The quantity and type of computer equipment sold by the
16 manufacturer to retail consumers in this State.
- 17 (3) The quantity and type of discarded computer equipment collected by
18 the manufacturer for recovery in this State for the preceding calendar
19 year.
- 20 (4) Any other information requested by the Department.

21 **§ 130A-309.93A. Requirements for television manufacturers.**

22 (a) Each television manufacturer, before selling or offering for sale televisions in
23 the State, shall register with the Department and, at the time of registration, shall pay an
24 initial registration fee of two thousand five hundred dollars (\$2,500) to the Department.
25 An initial registration shall be valid from the day of registration through the last day of
26 the fiscal year in which the registration fee was paid. A television manufacturer that has
27 registered shall pay an annual renewal registration fee of two thousand five hundred
28 dollars (\$2,500) to the Department. The annual renewal registration fee shall be paid to
29 the Department each fiscal year no later than 30 June of the previous fiscal year. The
30 Department may charge an administrative fee of up to one hundred fifty dollars
31 (\$150.00) for failure to pay the permit fee by 30 June of each year. The proceeds of
32 these fees shall be credited to the Television Management Account. A television
33 manufacturer that sells 1,000 televisions or less per year is exempt from the requirement
34 to pay the registration fee and the annual renewal fee imposed by this subsection.

35 (b) A television manufacturer shall not sell or offer to sell any television in this
36 State unless a visible, permanent label clearly identifying the manufacturer of that
37 device is affixed to the equipment.

38 (c) The obligation to recycle televisions shall be allocated to each television
39 manufacturer based on the television manufacturer's market share. A television
40 manufacturer must annually recycle or arrange for the recycling of its market share of
41 televisions pursuant to this section.

42 (d) A television manufacturer shall conduct and document due diligence
43 assessments of the recyclers the manufacturer contracts with, including an assessment of
44 compliance with environmentally sound recovery standards adopted by the Department.

1 (e) A television manufacturer shall provide the Department with contact
2 information for the manufacturer's designated agent or employee whom the Department
3 may contact for information related to the manufacturer's compliance with the
4 requirements of this section.

5 (f) A television manufacturer may fulfill the requirements of this section either
6 individually or in participation with other television manufacturers.

7 (g) A television manufacturer shall report to the Department by 1 October of
8 each year the total weight of televisions the manufacturer collected and recycled in the
9 State during the previous year.

10 **"§ 130A-309.93B. Requirements applicable to retailers.**

11 (a) A manufacturer must not sell or offer for sale or deliver to retailers for
12 subsequent sale new televisions unless: (i) the covered device is labeled with the
13 manufacturer's brand, which label is permanently affixed and readily visible; and (ii) the
14 manufacturer has filed a registration with the Department, as specified in this Part.

15 (b) A retailer that sells or offers for sale new televisions must, before the initial
16 offer for sale, review the Department's Web site to determine that all new covered
17 devices that the retailer is offering for sale are labeled with the manufacturer's brands
18 that are registered with the Department.

19 (c) A retailer is not responsible for an unlawful sale under this section if the
20 manufacturer's registration expired or was revoked and the retailer took possession of
21 the covered device prior to the expiration or revocation of the manufacturer's
22 registration and the unlawful sale occurred within six months after the expiration or
23 revocation.

24 **"§ 130A-309.94. Requirements for discarded computer equipment and television**
25 **collectors.**

26 Each discarded computer equipment and television collector shall ensure that
27 discarded computer equipment and televisions received by the collector ~~is~~are
28 ~~consolidated at central locations,~~ properly stored, and either held for pickup by a
29 manufacturer or delivered to a facility designated by a manufacturer.

30 **"§ 130A-309.95. Responsibilities of the Department.**

31 In addition to its other responsibilities under this Part, the Department shall:

32 (1) Develop and maintain a current list of manufacturers that are in
33 compliance with the requirements of G.S. 130A-309.93 and
34 G.S. 130A-309.93A and provide the current list to the Office of
35 Information Technology Services each time that the list is updated.

36 (2) Develop and implement a public education program on the laws
37 governing the recycling and reuse of discarded televisions and
38 computer equipment under this Part and on the methods available to
39 consumers to comply with those requirements. The Department shall
40 make this information available on the Internet and shall provide
41 technical assistance to manufacturers to meet the requirements of
42 G.S. 130A-309.93(c)(8). ~~_____~~ G.S. 130A-309.93(c)(8) ~~_____~~ and
43 G.S. 130A-309.93A(c)(8). The Department shall also provide technical
44 assistance to units of local government on the establishment and

1 operation of discarded computer equipment and television collection
2 centers and in the development and implementation of local public
3 education programs.

4 (3) Maintain the confidentiality of any information that is required to be
5 submitted by a manufacturer under this Part that is designated as a
6 trade secret, as defined in G.S. 66-152(3) and that is designated as
7 confidential or as a trade secret under G.S. 132-1.2.

8 (4) The Department shall use national televisions sales data available from
9 commercially available analytical sources to calculate the generation
10 of discarded televisions and to determine each television
11 manufacturer's recovery responsibilities for televisions based on the
12 manufacturer's market share. The Department shall extrapolate data
13 for the State from national data on the basis of the State's share of the
14 national population.

15 **"§ 130A-309.96. Computer Equipment Management ~~Account.~~ Account; Television**
16 **Management Account.**

17 (a) The Computer Equipment Management Account is created as a nonreverting
18 account within the Department. Funds in the Account shall be used by the Department
19 to implement the provisions of this Part.

20 (b) The Television Management Account is created as a nonreverting account
21 within the Department. Funds in the Account shall be used by the Department to
22 implement the provisions of this Part.

23 **"§ 130A-309.97. Enforcement.**

24 This Part may be enforced as provided by Part 2 of Article 1 of this Chapter.

25 **"§ 130A-309.98. Annual report.**

26 No later than ~~April 15~~ January of each year, the Department shall submit a report
27 on the recycling of discarded computer equipment and televisions in the State under this
28 Part to the Environmental Review Commission. The report must include an evaluation
29 of the recycling rates in the State for discarded computer ~~equipment,~~ equipment and
30 televisions, a discussion of compliance and enforcement related to the requirements of
31 this Part, and any recommendations for any changes to the system of collection and
32 recycling of discarded computer equipment televisions, or other electronic devices."

33 **"§ 130A-309.99. Local government authority not preempted.**

34 Nothing in this Part shall be construed as limiting the authority of any local
35 government to manage computer equipment and televisions that are solid waste."

36 **SECTION 2.** G.S. 130A-309.09A(b)(6) reads as rewritten:

37 "(6) Include an assessment of current programs and a description of intended
38 actions with respect to:

- 39 a. Education with the community and through the schools.
40 b. Management of special wastes.
41 c. Prevention of illegal disposal and management of litter.
42 d. Purchase of recycled materials and products manufactured with
43 recycled materials.

- 1 e. For each county and each municipality with a population in
2 excess of 25,000, collection of discarded computer
3 equipment, equipment and televisions, as defined in
4 G.S. 130A-309.91."

5 **SECTION 3.** G.S. 130A-309.10(f) is amended by adding a new subdivision
6 to read:

7 "(15) Discarded televisions, as defined in G.S. 130A-309.91."

8 **SECTION 4.** G.S. 130A-309.10(f1) is amended by adding a new
9 subdivision to read:

10 "(8) Discarded televisions, as defined in G.S. 130A-309.91."

11 **SECTION 5.** G.S. 147-33.104 reads as rewritten:

12 "**§ 147-33.104. Purchase by State agencies and governmental entities of certain**
13 **computer equipment prohibited.**

14 (a) The exemptions set out in G.S. 147-33.80 do not apply to this section.

15 (b) No State agency, political subdivision of the State, or other public body shall
16 purchase computer equipment, equipment or televisions, as defined in
17 G.S. 130A-309.91, from any manufacturer that the Secretary determines is not
18 determined not to be in compliance with the requirements of G.S. 130A-309.93 or
19 G.S. 130A-309.93A as determined from the list provided by the Department of
20 Environment and Natural Resources pursuant to G.S. 130A-309.95(1). The Secretary
21 shall issue written findings upon a determination of noncompliance. A determination of
22 noncompliance by the Secretary is reviewable under Article 3 of Chapter 150B of the
23 General Statutes.

24 (c) The Office of Information Technology Services shall make the list available
25 to political subdivisions of the State and other public bodies. A manufacturer that is not
26 in compliance with the requirements of G.S. 130A-309.93 shall not sell or offer for sale
27 computer equipment or televisions to the State, a political subdivision of the State, or
28 other public body."

29 **SECTION 6.** Section 16.1(b) of S.L. 2007-550 reads as rewritten:

30 "**SECTION 16.1.(b)** The Department shall include in the annual report for ~~4 April~~
31 15 January 2011, as required by G.S. 130A-309.98, as enacted by Section 16.1(a) of this
32 act, an analysis of the feasibility and advisability of adding additional products to the
33 list of covered devices in deleting the exclusion of printing devices from the definition
34 of computer equipment as set out in G.S. 130A-309.91, as enacted by Section 16.1(a) of
35 this act."

36 **SECTION 7.** Subsections (a) and (b) of Section 16 of S.L. 2007-550 read as
37 rewritten:

38 "**SECTION 16.6.(a)** Part 2E of Article 9 of Chapter 130A of the General Statutes,
39 as enacted by Section 16.1(a) of this act, becomes effective as follows:

- 40 (1) G.S. 130A-309.90 becomes effective 1 January ~~2009~~.2010.
41 (2) G.S. 130A-309.91 becomes effective 1 January ~~2009~~.2010.
42 (3) G.S. 130A-309.92 becomes effective 1 January ~~2009~~.2010.
43 (4) G.S. 130A-309.93(a) becomes effective 1 January ~~2009~~.2010.
44 (5) G.S. 130A-309.93(b) becomes effective 1 January ~~2009~~.2010.

- 1 (6) G.S. 130A-309.93(c) becomes effective 1 ~~October 2009.~~ January 2010.
2 (7) G.S. 130A-309.93(d) becomes effective 1 ~~October 2009.~~ January
3 2010.
4 (8) G.S. 130A-309.93(e) becomes effective 1 January ~~2009.~~ 2010.
5 (9) G.S. 130A-309.93(f) becomes effective 1 January ~~2009.~~ 2010.
6 (10) G.S. 130A-309.93(g) becomes effective 1 February 2011.
7 (10a) G.S. 130A-309.93A(a) through (f) become effective 1 January 2010.
8 (10b) G.S. 130A-309.93A(g) becomes effective 1 October 2011.
9 (10c) G.S. 130A-309.93B becomes effective 1 January 2010.
10 (11) G.S. 130A-309.94 becomes effective 1 January 2010.
11 (12) G.S. 130A-309.95(1) becomes effective 1 January ~~2009.~~ 2010.
12 (13) G.S. 130A-309.95(2) becomes effective 1 January ~~2009.~~ 2010.
13 (14) G.S. 130A-309.95(3) becomes effective 1 January ~~2009.~~ 2010.
14 (15) G.S. 130A-309.96 becomes effective 1 January ~~2009.~~ 2010.
15 (16) G.S. 130A-309.97 becomes effective 1 January ~~2009.~~ 2010.
16 (17) G.S. 130A-309.98 becomes effective ~~1 April~~ 15 January 2011.
17 **SECTION 16.6.(b)** Section 16.2 of this act becomes effective 1 January
18 ~~2009-2010.~~ Sections 16.3 and 16.4 of this act become effective 1 January ~~2012-2011.~~
19 Section 16.5 of this act becomes effective 1 July ~~2009-2010.~~ Subsection (b) of Section
20 16.1 of this act, Section 16.6 of this act, and any other provision of Section 16 of this act
21 for which an effective date is not specified become effective 1 January ~~2009-2010.~~"
22 **SECTION 8.** Sections 3, 4, and 5 of this act become effective 1 January
23 2011. The remainder of this act is effective when it becomes law.