

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2008-208
HOUSE BILL 819**

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.
- (5) No ~~other~~ comprehensive system currently exists, either provided by electronics manufacturers, retailers, or others, to adequately serve all citizens of the State and to divert large quantities of discarded computer equipment and televisions from disposal.
- (6) Manufacturer responsibility is an effective way to ensure that manufacturers of computer equipment take part in a solution to the electronic waste problem.
- (7) The recycling of certain discarded computer equipment and televisions recovers valuable materials for reuse and will create jobs and expand the tax base of the State.
- (8) While some computers and computer monitors can be refurbished and reused and other consumer electronics products contain valuable materials, some older and bulkier consumer electronic products, including some televisions, may not contain any valuable products but should nevertheless be recycled to prevent the release of toxic substances to the environment.
- (9) For the products covered by this Part, differences in product life expectancy, market economics, residual value, and product portability necessitate different approaches to recycling.

- (10) In order to ensure that end-of-life computer equipment and televisions are responsibly recycled, to promote conservation, and to protect public health and the environment, a comprehensive and convenient system for recycling and reuse of certain electronic equipment should be established on the basis of shared responsibility among manufacturers, retailers, consumers, and the State.

"§ 130A-309.91. Definitions.

As used in this Part, the following definitions apply:

- (1) Business entity. – Defined in G.S. 55-1-40(2a).
- (2) Computer equipment. – Any desktop central processing unit, any laptop computer, the monitor or video display unit for a computer system, and the keyboard, mice, and other peripheral equipment. Computer equipment does not include a printing device such as a printer, a scanner, a combination print-scanner-fax machine, or other device designed to produce hard paper copies from a computer; an automobile; a television; a household appliance; a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the federal Food, Drug, and Cosmetic Act.
- (2a) Covered device. – Computer equipment and televisions. The term does not include a device that is:
 - a. Part of a motor vehicle or any component of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.
 - b. (i) Physically a part of or integrated within a larger piece of equipment designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting; (ii) equipment used for diagnostic, monitoring, or other medical products as that term is defined under the Federal Food, Drug, and Cosmetic Act; (iii) equipment used for security, sensing, monitoring, antiterrorism purposes, or emergency services purposes.
 - c. Contained within a household appliance, including, but not limited to, a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, or exercise equipment.
- (3) Discarded computer equipment. – Computer equipment that is solid waste.
- (3a) Discarded television. – A television that is solid waste.
- (4) Discarded computer equipment or television collector. – A municipal or county government, nonprofit agency, or retailer that accepts discarded computer equipment or a television from the public.
- (5) Computer Manufacturer. – A person ~~who~~ that manufactures computer equipment sold under its own brand or label; sells under its own brand or label computer equipment produced by other suppliers; imports into the United States computer equipment that was manufactured outside of the United States; or owns a brand that it licenses to another person for use on computer equipment. Manufacturer includes a business entity that acquires another business entity that manufactures or has manufactured computer equipment.

- (5a) Market share. – A television manufacturer's obligation to recycle discarded televisions. A television manufacturer's market share is the television manufacturer's prior year's sales of televisions as calculated by the Department pursuant to G.S. 130A-309.95(4) divided by all manufacturers' prior year's sales for all televisions as calculated by the Department pursuant to G.S. 130A-309.95(4). Market share may be expressed as a percentage, a fraction, or a decimal fraction.
- (6) Orphan discarded computer equipment. – Any discarded computer equipment for which a manufacturer cannot be identified or for which the manufacturer is no longer in business and has no successor in interest.
- (7) Retailer. – A person ~~who~~ that sells computer equipment or televisions in the State to a consumer. Retailer includes a manufacturer of computer equipment or televisions that sells directly to a consumer through any means, including transactions conducted through sales outlets, catalogs, the Internet, or any similar electronic means, but does not include a person ~~who~~ that sells computer equipment or televisions to a distributor or retailer through a wholesale transaction.
- (8) Television. – Any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of 9 inches or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD), light emitting diode (LED), or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include computer equipment.
- (9) Television manufacturer. – A person that: (i) manufactures for sale in this State a television under a brand that it licenses or owns; (ii) manufactures for sale in this State a television without affixing a brand; (iii) resells into this State a television under a brand it owns or licenses produced by other suppliers, including retail establishments that sell a television under a brand that the retailer owns or licenses; (iv) imports into the United States or exports from the United States a television for sale in this State; (v) sells at retail a television acquired from an importer that is the manufacturer as described in (i) of this subdivision, and the retailer elects to register in lieu of the importer as the manufacturer of those products; (vi) manufactures a television for or supplies a television to any person within a distribution network that includes wholesalers or retailers in this State and that benefits from the sale in this State of the television through the distribution network; or (vii) assumes the responsibilities and obligations of a television manufacturer under this Part. In the event the television manufacturer is one that manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand shall not be considered to be a television manufacturer under (i) or (iii) of this subdivision.

"§ 130A-309.92. Responsibility for recycling discarded computer equipment, equipment and televisions.

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

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

(a) **Registration and Fee Required.** – Each manufacturer of computer equipment, before selling or offering for sale computer equipment in North Carolina, shall register with the Department and, at the time of registration, shall pay an initial registration fee of ten thousand dollars (\$10,000) to the Department. A computer equipment manufacturer that has registered shall pay an annual renewal registration fee of one thousand dollars (\$1,000) to the Department. The annual renewal registration fee shall be paid each year no later than the first day of the month in which the initial registration fee was paid. The proceeds of these fees shall be credited to the Computer Equipment Management Account. A manufacturer of computer equipment that sells 1,000 items of computer equipment or less per year is exempt from the requirement to pay the registration fee and the annual renewal fee imposed by this subsection.

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

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

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

(d) **Computer Equipment Recycling Plan Revision.** – A manufacturer may prepare a revised plan and submit it to the Department at any time as the manufacturer considers appropriate in response to changed circumstances or needs. The Department may require a manufacturer to revise or update a plan if the Department finds that the plan is inadequate or out-of-date.

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

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

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

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

"§ 130A-309.93A. Requirements for television manufacturers.

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

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

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

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

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

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

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

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

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

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

(c) A retailer is not responsible for an unlawful sale under this section if the manufacturer's registration expired or was revoked and the retailer took possession of

the covered device prior to the expiration or revocation of the manufacturer's registration and the unlawful sale occurred within six months after the expiration or revocation.

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

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

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

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

- (1) Develop and maintain a current list of manufacturers that are in compliance with the requirements of G.S. 130A-309.93 and G.S. 130A-309.93A and provide the current list to the Office of Information Technology Services each time that the list is updated.
- (2) Develop and implement a public education program on the laws governing the recycling and reuse of discarded televisions and computer equipment under this Part and on the methods available to consumers to comply with those requirements. The Department shall make this information available on the Internet and shall provide technical assistance to manufacturers to meet the requirements of ~~G.S. 130A-309.93(c)(8).~~ G.S. 130A-309.93(c)(8) and G.S. 130A-309.93A(c)(8). The Department shall also provide technical assistance to units of local government on the establishment and operation of discarded computer equipment and television collection centers and in the development and implementation of local public education programs.
- (3) Maintain the confidentiality of any information that is required to be submitted by a manufacturer under this Part that is designated as a trade secret, as defined in G.S. 66-152(3) and that is designated as confidential or as a trade secret under G.S. 132-1.2.
- (4) The Department shall use national televisions sales data available from commercially available analytical sources to calculate the generation of discarded televisions and to determine each television manufacturer's recovery responsibilities for televisions based on the manufacturer's market share. The Department shall extrapolate data for the State from national data on the basis of the State's share of the national population.

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

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

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

"§ 130A-309.97. Enforcement.

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

"§ 130A-309.98. Annual report.

No later than ~~1 April~~ 15 January of each year, the Department shall submit a report on the recycling of discarded computer equipment and televisions in the State under this Part to the Environmental Review Commission. The report must include an evaluation of the recycling rates in the State for discarded computer ~~equipment,~~ equipment and televisions, a discussion of compliance and enforcement related to the requirements of

this Part, and any recommendations for any changes to the system of collection and recycling of discarded computer equipment televisions, or other electronic devices."

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

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

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

- "(6) Include an assessment of current programs and a description of intended actions with respect to:
- a. Education with the community and through the schools.
 - b. Management of special wastes.
 - c. Prevention of illegal disposal and management of litter.
 - d. Purchase of recycled materials and products manufactured with recycled materials.
 - e. For each county and each municipality with a population in excess of 25,000, collection of discarded computer ~~equipment~~equipment and televisions, as defined in G.S. 130A-309.91."

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

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

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

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

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

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

- (a) The exemptions set out in G.S. 147-33.80 do not apply to this section.
- (b) No State agency, political subdivision of the State, or other public body shall purchase computer ~~equipment~~equipment or televisions, as defined in G.S. 130A-309.91, from any manufacturer that the Secretary determines is not determined not to be in compliance with the requirements of G.S. 130A-309.93 or G.S. 130A-309.93A as determined from the list provided by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.95(1). The Secretary shall issue written findings upon a determination of noncompliance. A determination of noncompliance by the Secretary is reviewable under Article 3 of Chapter 150B of the General Statutes.

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

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

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

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

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

- (1) G.S. 130A-309.90 becomes effective 1 January ~~2009~~2010.
- (2) G.S. 130A-309.91 becomes effective 1 January ~~2009~~2010.
- (3) G.S. 130A-309.92 becomes effective 1 January ~~2009~~2010.

- (4) G.S. 130A-309.93(a) becomes effective 1 January ~~2009~~, 2010.
- (5) G.S. 130A-309.93(b) becomes effective 1 January ~~2009~~, 2010.
- (6) G.S. 130A-309.93(c) becomes effective 1 ~~October 2009~~, January 2010.
- (7) G.S. 130A-309.93(d) becomes effective 1 ~~October 2009~~, January 2010.
- (8) G.S. 130A-309.93(e) becomes effective 1 January ~~2009~~, 2010.
- (9) G.S. 130A-309.93(f) becomes effective 1 January ~~2009~~, 2010.
- (10) G.S. 130A-309.93(g) becomes effective 1 February 2011.
- (10a) G.S. 130A-309.93A(a) through (f) become effective 1 January 2010.
- (10b) G.S. 130A-309.93A(g) becomes effective 1 October 2011.
- (10c) G.S. 130A-309.93B becomes effective 1 January 2010.
- (11) G.S. 130A-309.94 becomes effective 1 January 2010.
- (12) G.S. 130A-309.95(1) becomes effective 1 January ~~2009~~, 2010.
- (13) G.S. 130A-309.95(2) becomes effective 1 January ~~2009~~, 2010.
- (14) G.S. 130A-309.95(3) becomes effective 1 January ~~2009~~, 2010.
- (15) G.S. 130A-309.96 becomes effective 1 January ~~2009~~, 2010.
- (16) G.S. 130A-309.97 becomes effective 1 January ~~2009~~, 2010.
- (17) G.S. 130A-309.98 becomes effective ~~1 April 15~~ January 2011.

SECTION 16.6.(b) Section 16.2 of this act becomes effective 1 January ~~2009~~, 2010. Sections 16.3 and 16.4 of this act become effective 1 January ~~2012~~, 2011. Section 16.5 of this act becomes effective 1 July ~~2009~~, 2010. Subsection (b) of Section 16.1 of this act, Section 16.6 of this act, and any other provision of Section 16 of this act for which an effective date is not specified become effective 1 January ~~2009~~, 2010."

SECTION 8. Sections 3, 4, and 5 of this act become effective 1 January 2011. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 9:43 a.m. this 9th day of August, 2008