

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS55347-LDf-125B (03/13)

Short Title: Recycling Discarded Computer Equipment. (Public)

Sponsors: Senator Cowell.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA PRODUCER
RESPONSIBILITY PROGRAM FOR THE RECYCLING OF DISCARDED
COMPUTER EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended
by adding a new Part to read:

"Part 2E. "North Carolina Computer Equipment Responsibility Program.

"§ 130A-309.90. Findings.

The General Assembly makes the following findings:

- (1) The computer equipment 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 North Carolina's citizens to have convenient, simple, and free access to recycling services for their discarded computer equipment.
- (3) Collection programs operated by local government and nonprofit agencies are an efficient way to divert discarded computer equipment from disposal and to provide recycling services to all North Carolinians across the State.
- (4) The development of local and nonprofit collection programs is hindered by the high costs of recycling and transporting discarded computer equipment.
- (5) No other system currently exists, either provided by electronics manufacturers, retailers, or others, to adequately serve all North Carolinians and to divert large quantities of discarded computer equipment from disposal.

1 (6) Manufacturer responsibility is an effective way to ensure that
2 manufacturers of computer equipment take part in a solution to the
3 electronic waste problem.

4 (7) The recycling of discarded computer equipment recovers valuable
5 materials for reuse and will create jobs and expand the tax base in
6 North Carolina.

7 **"§ 130A-309.91. Definitions.**

8 As used in this section, the following definitions apply:

9 (1) Computer equipment. – Any desktop central processing unit, any
10 laptop computer, the monitor or video display unit for a computer
11 system, the keyboard, mice, and any other peripheral equipment, and
12 printing devices such as printers, scanners, combination
13 print-scanner-fax machines, and other devices designed to produce
14 hard paper copies from a computer. Computer equipment does not
15 include an automobile, a household appliance, a large piece of
16 commercial or industrial equipment, such as commercial medical
17 equipment, that contains a cathode ray tube, a cathode ray tube device,
18 a flat panel display or similar video display device that is contained
19 within, and is not separate from, the larger piece of equipment, or other
20 medical devices as that term is defined under the federal Food, Drug,
21 and Cosmetic Act.

22 (2) Discarded computer equipment. – Computer equipment that has
23 reached the end of its useful life and is ready to be recycled.

24 (3) Discarded computer equipment collectors. – A municipal or county
25 government, nonprofit agency, or retailer that accepts computer
26 equipment from the public.

27 (4) Certified computer equipment recycling facility. – A business that
28 processes covered electronic devices for reuse and recycling that meets
29 a minimum set of operational and material handling standards
30 determined by the Department.

31 (5) Manufacturer. – A person who manufactures computer equipment sold
32 under its own brand or label; sells under its own brand or label
33 computer equipment produced by other suppliers; imports into the
34 United States computer equipment that was manufactured by a person
35 without a presence in the United States; or owns a brand that it licenses
36 to another person for use on computer equipment.

37 (6) Orphan discarded computer equipment. – Any computer equipment for
38 which a manufacturer cannot be identified or for which the
39 manufacturer is no longer in business and has no successor in interest.

40 (7) Retailer. – A person who sells computer equipment in the State to a
41 consumer. Retailer includes a manufacturer of computer equipment
42 that sells directly to a consumer through any means, including
43 transactions conducted through sales outlets, catalogs, or the Internet,

1 or any similar electronic means, but not including wholesale
2 transactions with a distributor or other retailer.

3 **"§ 130A-309.92. Responsibility for recycling discarded computer equipment.**

4 In addition to the specific requirements of this Part, computer equipment collectors,
5 certified computer equipment recycling facilities, manufacturers, and the State share
6 responsibility for the recycling of discarded computer equipment and the education of
7 consumers in North Carolina on recycling opportunities for discarded computer
8 equipment.

9 **"§ 130A-309.93. Requirements for manufacturers.**

10 (a) Registration and Fee Required. – Each manufacturer of computer equipment
11 sold in North Carolina shall register with the Department and shall pay an initial
12 registration fee of ten thousand dollars (\$10,000) to the Department and an annual
13 renewal registration fee of five thousand dollars (\$5,000). The proceeds of these fees
14 shall be credited to the Computer Equipment Management Account.

15 (b) Manufacturer Label Required. – A manufacturer shall not offer for sale in this
16 State computer equipment unless a visible, permanent label clearly identifying the
17 manufacturer of that device is affixed to it.

18 (c) Recycling Plan; Duty to Pay Cost of Recycling. – Each manufacturer of
19 computer equipment shall do all of the following:

20 (1) Develop and submit to the Department a plan for approval by the
21 Department for the recycling or reuse of computer equipment
22 produced by the manufacturer and generated as discarded computer
23 equipment by households in North Carolina. This plan shall be based
24 on the manufacturer's taking responsibility for its products upon
25 receipt at a certified computer equipment recycling facility and shall
26 include mechanisms by which a manufacturer of computer equipment
27 shall implement and finance the implementation of this plan. This plan
28 shall identify a specific arrangement for working with each certified
29 computer equipment recycling facility, including the prompt payment
30 of quarterly invoices from certified computer equipment recycling
31 facilities. Any plan that excludes any certified computer equipment
32 recycling facility in the State shall not be approved by the Department.

33 (2) Include in its plan under subdivision (1) of this subsection, at a
34 minimum, all of the following:

35 a. Details about meeting all labeling requirements.

36 b. Details for implementing and financing the handling of
37 discarded computer equipment originally produced by the
38 manufacturer and orphan discarded computer equipment
39 generated by households in this State and received by certified
40 computer equipment recyclers in this State. The plan shall show
41 how all costs of handling, transporting, and recycling of
42 discarded computer equipment will be paid.

43 c. A mechanism by which the manufacturer will work with each
44 certified computer equipment recycling facility, including how

- 1 quarterly invoices will be received from the facility and paid by
2 the manufacturer.
- 3 d. A description of the performance measures that will be used by
4 the manufacturer to report recovery and recycling rates for
5 discarded computer equipment.
- 6 (3) Upon approval of the plan under subdivision (1) of this subsection by
7 the Department, begin immediate implementation of its plan.
- 8 (4) Following submission and approval of the original plan, revise the plan
9 at any time as the manufacturer considers appropriate in response to
10 changing circumstances or needs, but only if these revisions conform
11 to the provisions of this Part and are submitted to the Department in a
12 timely manner.
- 13 (5) Pay those reasonable costs of operating a certified computer equipment
14 recycling facility that are attributable to the handling of discarded
15 computer equipment generated as waste by households in this State,
16 the costs of transporting the discarded computer equipment from the
17 computer equipment collector to a certified computer equipment
18 recycling facility, and the actual costs of recycling the discarded
19 computer equipment. A manufacturer is responsible for all costs
20 associated with the development and implementation of its plan under
21 this subsection. If the costs of implementing the plan are passed on to
22 consumers, the costs shall be imposed at the time of purchase and shall
23 be in the form of a fee imposed at the end of the life of the computer
24 equipment.
- 25 (6) Pay each certified computer equipment recycling facility for the
26 manufacturer's pro rata share of orphan discarded computer equipment
27 waste from the previous calendar year, calculated under
28 G.S. 130A-309.97.
- 29 (7) In lieu of the requirements under subdivisions (1) through (5) of this
30 subsection, participate in a collective recovery plan with other
31 manufacturers so long as the collective recovery plan shall meet the
32 same standards and requirements of the plan submitted by an
33 individual manufacturer under subdivisions (1) through (5) of this
34 subsection.
- 35 (8) By January 31 of each year, submit a report to the Department that
36 includes all of the following:
- 37 a. A description of the collection and recycling services utilized to
38 recover the manufacturer's products.
- 39 b. Substantiated estimates, on an annual basis for the preceding
40 calendar year, of the quantities of computer equipment
41 marketed to retail consumers in this State and collected for
42 recovery in this State.
- 43 c. The capture rate for computer equipment based on sales in this
44 State and any systems implemented by the manufacturer to

1 ensure the minimum environmentally sound management of its
2 products.

3 (9) Keep any information submitted pursuant to this subsection
4 confidential as provided by existing State law.

5 (10) At the option of the manufacturer, provide information to the
6 Department, for consideration by the Department under
7 G.S. 130A-309.97, on any certified computer equipment recycling
8 facility whose cost charges are unreasonable.

9 **"§ 130A-309.94. Prohibited sales of computer equipment.**

10 (a) A manufacturer not in compliance with the requirements of
11 G.S. 130A-309.93 shall not offer computer equipment for sale in this State and shall
12 provide the necessary support to retailers to ensure the manufacturer's computer
13 equipment is not offered for sale in this State.

14 (b) A retailer shall not offer for sale in this State computer equipment of a
15 manufacturer that is not in compliance with the requirements of G.S. 130A-309.93.

16 **"§ 130A-309.95. Certification of computer equipment recycling facilities.**

17 (a) No business shall accept for recycling discarded computer equipment unless
18 it has obtained from the Department certification as a computer equipment recycling
19 facility. Only a computer equipment recycling facility that is certified by the
20 Department is eligible to be included in a manufacturer producer responsibility plan and
21 is eligible to invoice a manufacturer for the costs of recycling discarded computer
22 equipment.

23 (b) To obtain certification as a computer equipment recycling facility, a business
24 shall apply to the Department. Subject to subsections (c) and (d) of this section, the
25 Department shall certify a business that demonstrates to the satisfaction of the
26 Department that the business meets all of the following minimum environmentally
27 sound management standards:

28 (1) The business complies with all federal and State requirements for the
29 proper handling of discarded electronic equipment, including
30 specifically cathode ray tubes.

31 (2) The business does not directly export intact nonworking cathode ray
32 tubes.

33 (3) The business does not indirectly export intact nonworking cathode ray
34 tubes by either using suppliers or subcontractors that export these
35 cathode ray tubes.

36 (4) Complies with all federal and international laws and agreements on the
37 export of used products or materials.

38 (5) The business does not use prison labor to collect, process, or market
39 discarded computer equipment.

40 (6) The business does not use subcontractors or suppliers that use prison
41 labor to collect, process, or market discarded computer equipment.

42 (7) The business actively uses recycling industry auditing and certification
43 programs to assess ongoing business and environmental performance.

- 1 (8) The business has, and has implemented, a written health and safety
2 plan to protect workers in handling discarded computer equipment
3 within the business operations.
- 4 (9) The business has a written plan for hazardous materials identification
5 and management.
- 6 (10) The business has a written plan for reporting and responding to
7 exceptional pollutant releases, including emergencies such as
8 accidents, spills, fires, and explosions.
- 9 (11) The business has no record of significant violations of federal or State
10 occupational health and safety or environmental laws within the
11 previous three years by the business or its subcontractors or suppliers.
- 12 (12) The business uses appropriate equipment and facilities that minimize
13 adverse exposures to workers and releases to the environment.
- 14 (13) The business has obtained certificates of insurance to cover all aspects
15 of the business's operations, including commercial general liability
16 insurance or equivalent corporate guarantee for accidents and other
17 emergencies with limits of not less than one million dollars
18 (\$1,000,000) per occurrence and not less than one million dollars
19 (\$1,000,000) in the aggregate.
- 20 (14) The business has a written plan for cost coverage and the handling of
21 discarded electronic equipment in the event of disruptions or cessation
22 of the business's operations.
- 23 (15) The business has a demonstrated ability to report detailed information
24 on incoming and outgoing materials and the management of those
25 materials in its business operations.

26 (c) Each applicant shall provide information on its business's typical cost charges
27 for transporting and recycling of discarded computer equipment from computer
28 equipment collectors or the methods by which it calculates such charges. Each applicant
29 shall describe its experience and capacity to sort and manage discarded commuter
30 equipment and its system of inventory management and cost accounting. The
31 Department shall take the information provided by the applicant under this subsection
32 into account when determining whether to certify the applicant as a computer equipment
33 recycling facility.

34 (d) When determining whether to certify or renew the certification of a computer
35 equipment recycling facility, the Department shall review the cost charges of the
36 certified computer equipment recycling facility to determine whether the charges are
37 reasonable.

38 (e) Each applicant for certification as a computer equipment recycling facility
39 shall submit an application fee of five thousand dollars (\$5,000) and shall pay an annual
40 renewal fee of two thousand five hundred dollars (\$2,500). The funds received under
41 this section shall be credited to the Computer Equipment Management Account.

42 (f) Any certified computer equipment recycling facility that fails to adhere to the
43 minimum environmentally sound management standards under subsection (b) of this
44 section shall be removed from the list of certified facilities and shall no longer be

1 eligible to be included in a manufacturer's plan or receive payment from any
2 manufacture for the recycling of discarded computer equipment.

3 **"§ 130A-309.96. Requirements for certified computer equipment recycling**
4 **facilities.**

5 Each certified computer equipment recycling facility shall do all of the following:

- 6 (1) Identify the manufacturer of discarded computer equipment delivered
7 to its facility that was identified as generated by a household in this
8 State.
- 9 (2) Maintain an accounting and an itemized inventory of the discarded
10 computer equipment delivered to its facility, by manufacturer, and no
11 later than January 15 of each year provide this accounting to the
12 Department. The accounting under this subdivision shall include a
13 determination of the amounts of orphan discarded computer
14 equipment.
- 15 (3) Work cooperatively with manufacturers to ensure implementation of a
16 practical and feasible financing system that, at a minimum, provides
17 that each certified computer equipment recycling facility shall invoice
18 any manufacturer for the handling, transportation, and recycling costs
19 for which the manufacturer is responsible under the provisions of
20 G.S. 130A-309.93.
- 21 (4) Ensure that the cost charges for recycling discarded computer
22 equipment at its facility are reasonable.

23 **"§ 130A-309.97. Requirements for the Department.**

24 The Department shall:

- 25 (1) No later than January 31 of each year, calculate, based on the best
26 available information, including but not limited to data provided by
27 manufacturers and certified computer equipment recycling facilities
28 and data from electronic waste collection programs in other
29 jurisdictions within the United States, and provide each manufacturer
30 and certified computer equipment recycling facility with a listing of
31 each manufacturer's pro rata share of the orphan discarded computer
32 equipment from the previous calendar year.
- 33 (2) Develop and maintain a list of certified computer equipment recycling
34 facilities and supply this list to each registered computer equipment
35 manufacturer registered under G.S. 130A-309.93 for inclusion in the
36 manufacturer's plan under G.S. 130A-309.93.

37 **"§ 130A-309.98. Requirements for discarded computer equipment collectors.**

38 Each computer equipment collector that chooses to participate in the North Carolina
39 Computer Equipment Responsibility Program under this Part shall ensure that discarded
40 computer equipment generated from households served by the collector is delivered to a
41 certified computer equipment recycling facility in this State. A collector may meet this
42 requirement by:

- 43 (1) Collecting and transporting discarded computer equipment from a
44 local or regional solid waste transfer station or recycling facility.

1 (2) Contracting with a recycling or solid waste facility to accept computer
2 equipment directly from residents through curbside pickup, at a
3 drop-off center operated by the collector, or by another collection
4 system convenient to consumers of computer equipment.

5 **"§ 130A-309.99. Computer Equipment Management Account.**

6 The Computer Equipment Management Account is created as a nonreverting
7 account within the Department. The fees deposited to the Computer Equipment
8 Management Account as initial registration fees under G.S. 130A-309.93 shall be
9 applied to the costs of implementing the Program under this Part, including necessary
10 staff positions. The fees collected and credited to the Account under G.S. 130A-309.95
11 shall be used to administer the Program under this Part.

12 **"§ 130A-309.100. Enforcement.**

13 (a) If a manufacturer fails to register with the Department or pay for the costs
14 allocated to it, including its pro rata share of costs attributable to orphan discarded
15 computer equipment, the Department shall seek cost recovery from the nonpaying
16 manufacturer. Any nonpaying manufacturer is liable for the costs incurred by the
17 Department in an amount up to three times the amount incurred as a result of such
18 failure to comply.

19 (b) The Attorney General may commence a civil action against any manufacturer
20 to recover the costs described in this section, which are in addition to any fines and
21 penalties imposed.

22 **"§ 130A-309.101. Disposal ban.**

23 Discarded computer equipment shall not be disposed of in a landfill or by
24 incineration.

25 **"§ 130A-309.102. Report required.**

26 No later than April 1 of each year, the Department shall submit a report on the
27 recycling of discarded computer equipment in the State under this Part to the
28 Environmental Review Commission. The report must include an evaluation of the
29 recycling rates in the State for discarded computer equipment, a discussion of
30 compliance and enforcement related to the requirements of this Part, and any
31 recommendations for any changes to the system of collection and recycling of electronic
32 devices in the State under this Part."

33 **SECTION 2.** G.S. 103A-309.09A(b)(6) reads as rewritten:

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

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

41 e. For each county and each municipality with a population in
42 excess of 25,000, collect discarded computer equipment, as
43 defined in G.S. 130A-309.91."

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

3 "(14) Discarded computer equipment as provided in G.S. 130A-309.96."

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

6 "(7) Discarded computer equipment as provided in G.S. 130A-309.96."

7 **SECTION 5.** G.S. 130A-309.14 is amended by adding a new subsection to
8 read:

9 "(a2) The Department of Administration shall review and revise its bid procedures
10 and specifications so that the bid procedures and specifications comply with all of the
11 following requirements:

12 (1) Effective July 1, 2008, all desktop computers, monitors, laptop or
13 notebook computers, and integrated systems purchased by the State of
14 North Carolina will meet at least the bronze standard of the federal
15 Electronic Product Environmental Assessment Tool (EPEAT).

16 (2) Effective July 1, 2011, all desktop computers, monitors, laptop or
17 notebook computers, and integrated systems purchased by the State of
18 North Carolina will meet at least the silver standard of the federal
19 Electronic Product Environmental Assessment Tool (EPEAT).

20 (3) Effective July 1, 2014, all desktop computers, monitors, laptop or
21 notebook computers, and integrated systems purchased by the State of
22 North Carolina will meet at least the gold standard of the federal
23 Electronic Product Environmental Assessment Tool (EPEAT)."

24 **SECTION 6.** G.S. 130A-309.93(b) and G.S. 130A-309.94, as enacted by
25 Section 1 of this act, become effective January 1, 2008, and apply to sales that occur on
26 or after that date; G.S. 130A-309.95 and G.S. 130A-309.96, as enacted by Section 1 of
27 this act, become effective January 1, 2008, and apply to discarded computer equipment
28 that is recycled at a certified computer recycling facility on or after January 1, 2009;
29 G.S. 130A-309.93(c), as enacted by Section 1 of this act, becomes effective December
30 31, 2008, except G.S. 130A-309.93(c)(8) becomes effective January 31, 2010;
31 G.S. 130A-309.96(2), as enacted by Section 1 of this act, becomes effective January 31,
32 2010; G.S. 130A-309.102, as enacted by Section 1 of this act, becomes effective April
33 1, 2010; and G.S. 130A-309.101, as enacted by Section 1 of this act, and Sections 3 and
34 4 of this act become effective January 1, 2011. The remainder of this act becomes
35 effective September 30, 2007, except as provided otherwise in G.S. 130A-309.14(a2),
36 as enacted by Section 5 of this act.