

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH10736-LD-71C* (3/12)

Short Title: Amend Electronics Recycling Law.

(Public)

Sponsors: Representative Gibson.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE FURTHER SUBSTANTIVE, CLARIFYING, TECHNICAL, AND
3 CONFORMING AMENDMENTS TO THE LAWS GOVERNING THE MANAGEMENT
4 OF DISCARDED COMPUTER EQUIPMENT AND DISCARDED TELEVISIONS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 130A-309.91 reads as rewritten:

7 "**§ 130A-309.91. (Effective January 1, 2010) Definitions.**

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

9 (1) Business entity. – Defined in G.S. 55-1-40(2a).

10 (2) Computer equipment. – Any desktop ~~central processing unit, any laptop~~
11 computer, notebook computer, the monitor or video display unit for a
12 computer system, and the keyboard, mice, and other peripheral equipment.
13 Computer equipment does not include a printing device such as a printer, a
14 scanner, a combination print-scanner-fax machine, or other device designed
15 to produce hard paper copies from a computer; an automated typewriter,
16 professional workstation, servers, ICI device, ICI system, mobile telephone,
17 portable handheld calculator, portable digital assistant (PDA), MP3 player,
18 or other similar device; an automobile; a television; a household appliance; a
19 large piece of commercial or industrial equipment, such as commercial
20 medical equipment, that contains a cathode ray tube, a cathode ray tube
21 device, a flat panel display, or similar video display device that is contained
22 within, and is not separate from, the larger piece of equipment, or other
23 medical devices as that term is defined under the federal Food, Drug, and
24 Cosmetic Act.

25 (2a) Computer equipment manufacturer. – A person that manufactures computer
26 equipment sold under its own brand or label; sells or has sold under its own
27 brand or label computer equipment produced by other suppliers; imports or
28 has imported into the United States computer equipment that was
29 manufactured outside of the United States; or owns or has owned a brand
30 that it licenses to another person for use on computer equipment.
31 ~~Manufacturer~~ Computer equipment manufacturer includes a business entity
32 that acquires another business entity that manufactures or has manufactured
33 computer equipment. Computer equipment manufacturer does not include
34 any existing person that manufactures computer equipment that the
35 Department determines is of such a character that the computer equipment



1 would not be used by consumers, unless such a manufacturer also
2 manufactures one or more kinds of computer equipment that are of such a
3 character as to be used by consumers, in which event the person is a
4 computer equipment manufacturer under this subdivision. Computer
5 equipment manufacturer does not include any existing person who both:

- 6 a. Owns and licenses the brand appearing on the computer equipment.
7 b. Has not manufactured or sold the computer equipment.
8 (2b) Covered device. – Computer equipment and televisions. The term does not
9 include a device that is:

- 10 a. Part of a motor vehicle or any component of a motor vehicle
11 assembled by, or for, a vehicle manufacturer or franchised dealer,
12 including replacement parts for use in a motor vehicle.
13 b. (i) Physically a part of or integrated within a larger piece of
14 equipment designed and intended for use in an industrial,
15 governmental, commercial, research and development, or medical
16 setting; (ii) equipment used for diagnostic, monitoring, or other
17 medical products as that term is defined under the Federal Food,
18 Drug, and Cosmetic Act; (iii) equipment used for security, sensing,
19 monitoring, antiterrorism purposes, or emergency services purposes.
20 c. Contained within a household appliance, including, but not limited
21 to, a clothes washer, clothes dryer, refrigerator, refrigerator and
22 freezer, microwave oven, conventional oven or range, dishwasher,
23 room air conditioner, dehumidifier, air purifier, or exercise
24 equipment.

- 25 (2c) Desktop computer. – An electronic, magnetic, optical, electrochemical, or
26 other high-speed data processing device that has all of the following
27 features:

- 28 a. Performs logical, arithmetic, and storage functions for general
29 purpose needs that are met through interaction with a number of
30 software programs contained in the computer.
31 b. Is not designed to exclusively perform a specific type of limited or
32 specialized application.
33 c. Achieves human interface through a stand-alone keyboard,
34 stand-alone monitor or other display unit, and a stand-alone mouse or
35 other pointing device.
36 d. Is designed for a single user.
37 e. Has a main unit that is intended to be persistently located in a single
38 location, often on a desk or on the floor.

- 39 (3) Discarded computer equipment. – Computer equipment that is solid waste.

- 40 (3a) Discarded television. – A television that is solid waste.

- 41 (4) Discarded computer equipment or television collector. – A municipal or
42 county government, nonprofit agency, recycler, or retailer that accepts
43 discarded computer equipment or a television from ~~the public occupants of~~
44 single detached dwelling units and single units in multiple dwelling units for
45 any such occupant who has used a covered device primarily for personal or
46 home business use.

- 47 (5) Recodified as G.S. 130A-309.91(2a).

- 48 (5a) Market share. – A television manufacturer's obligation to recycle discarded
49 televisions. A television manufacturer's market share is the television
50 manufacturer's prior year's sales of televisions as calculated by the
51 Department pursuant to G.S. 130A-309.95(4) divided by all manufacturers'

- 1 prior year's sales for all televisions as calculated by the Department pursuant
2 to G.S. 130A-309.95(4). Market share may be expressed as a percentage, a
3 fraction, or a decimal fraction.
- 4 (5b) Notebook computer. – An electronic, magnetic, optical, electrochemical, or
5 other high-speed data processing device that has all of the following
6 features:
- 7 a. Performs logical, arithmetic, or storage functions for general purpose
8 needs that are met through interaction with a number of software
9 programs contained in the computer.
- 10 b. Is not designed to exclusively perform a specific type of limited or
11 specialized application.
- 12 c. Achieves human interface through a keyboard, video display greater
13 than four inches in size, and mouse or other pointing device, all of
14 which are contained within the construction of the unit that
15 comprises the computer.
- 16 d. Is able to be carried as one unit by an individual.
- 17 e. Is able to use external, internal, or batteries for a power source.
- 18 Notebook computer includes those that have a supplemental stand-alone
19 interface device attached to the notebook computer. Notebook computer
20 does not include a portable handheld calculator, a portable digital assistant
21 (PDA), or similar specialized device. A notebook computer is sometimes
22 referred to as a laptop computer.
- 23 (6) ~~Orphan discarded computer equipment. — Any discarded computer~~
24 ~~equipment for which a manufacturer cannot be identified or for which the~~
25 ~~manufacturer is no longer in business and has no successor in interest.~~
- 26 (6a) Recover. – The process of reusing or recycling covered devices.
- 27 (6b) Recycle. – The processing, including disassembling, dismantling, and
28 shredding, of covered devices or their components to recover a usable
29 product. Recycle does not include any process that results in the incineration
30 of the product.
- 31 (6c) Recycler. – A person that recycles covered devices.
- 32 (7) Retailer. – A person that sells computer equipment or televisions in the State
33 to a consumer. Retailer includes a ~~manufacturer of computer equipment or~~
34 ~~televisions~~ computer equipment manufacturer or a television manufacturer
35 that sells directly to a consumer through any means, including transactions
36 conducted through sales outlets, catalogs, the Internet, or any similar
37 electronic means, but does not include a person that sells computer
38 equipment or televisions to a distributor or retailer through a wholesale
39 transaction.
- 40 (8) Television. – Any electronic device that contains a tuner that locks on to a
41 selected carrier frequency and is capable of receiving and displaying of
42 television or video programming via broadcast, cable, or satellite, including,
43 without limitation, any direct view or projection television with a viewable
44 screen of 9 inches or larger whose display technology is based on cathode
45 ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP),
46 liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD),
47 light emitting diode (LED), or similar technology marketed and intended for
48 use by a consumer primarily for personal purposes. The term does not
49 include computer equipment.
- 50 (9) Television manufacturer. – A person that: (i) manufactures for sale in this
51 State a television under a brand that it licenses or owns; (ii) manufactures for

1 sale in this State a television without affixing a brand; (iii) resells into this
2 State a television under a brand it owns or licenses produced by other
3 suppliers, including retail establishments that sell a television under a brand
4 that the retailer owns or licenses; (iv) imports into the United States or
5 exports from the United States a television for sale in this State; (v) sells at
6 retail a television acquired from an importer that is the manufacturer as
7 described in sub-subdivision (iv) of this subdivision, and the retailer elects to
8 register in lieu of the importer as the manufacturer of those products; (vi)
9 manufactures a television for or supplies a television to any person within a
10 distribution network that includes wholesalers or retailers in this State and
11 that benefits from the sale in this State of the television through the
12 distribution network; or (vii) assumes the responsibilities and obligations of
13 a television manufacturer under this Part. In the event the television
14 manufacturer is one that manufactures, sells, or resells under a brand it
15 licenses, the licensor or brand owner of the brand ~~shall not be considered to~~
16 ~~be~~ is not a television manufacturer under (i) or (iii) of this subdivision."

17 **SECTION 2.** G.S. 130A-309.93(c) reads as rewritten:

18 "(c) Computer Equipment Recycling Plan. – Each computer equipment manufacturer ~~of~~
19 ~~computer equipment~~ shall develop and submit to the Department a plan for reuse or recycling
20 of discarded computer equipment in the State produced by the manufacturer. The
21 manufacturer's responsibility under this Part and its plan under this section are limited to
22 reusing or recycling computer equipment that is discarded by occupants of a single detached
23 dwelling unit or a single unit of a multiple dwelling unit who have used the computer
24 equipment primarily for personal or home business use. The manufacturer shall submit a
25 proposed plan to the Department within 120 days of registration as required by subsection (a)
26 of this section. The plan shall:

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

50 **SECTION 3.** G.S. 130A-309.93 is amended by adding a new subsection to read:

1 "(h) Data Security. – Computer equipment manufacturers shall not be liable in any way
2 for data or other information left on a covered device that is collected or recovered."

3 **SECTION 4.** G.S. 130A-309.93A(c) reads as rewritten:

4 "(c) The obligation to recycle televisions shall be allocated to each television
5 manufacturer based on the television manufacturer's market share. A television manufacturer
6 must annually recycle or arrange for the recycling of its market share of televisions pursuant to
7 this section. The manufacturer's obligation to recycle its market share of televisions is limited
8 to televisions that are discarded by occupants of a single detached dwelling unit or a single unit
9 of a multiple dwelling unit who have used the televisions primarily for personal or home
10 business use."

11 **SECTION 5.** G.S. 130A-309.93A is amended by adding a new subsection to read:

12 "(h) Data Security. – Television manufacturers shall not be liable in any way for data or
13 other information left on a covered device that is collected or recovered."

14 **SECTION 6.** G.S. 130A-309.93B is amended by adding a new subsection to read:

15 "(d) A retailer shall not be liable in any way for data or other information left on a
16 covered device that is collected or recovered."

17 **SECTION 7.** G.S. 130A-309.94 reads as rewritten:

18 "**§ 130A-309.94. Requirements for discarded computer equipment and television**
19 **collectors.**

20 (a) Each discarded computer equipment and television collector shall ensure that
21 discarded computer equipment and televisions received by the collector are properly stored,
22 and either held for pickup by a manufacturer or delivered to a facility designated by a
23 manufacturer.

24 (b) A discarded computer equipment and television collector shall not be liable in any
25 way for data or other information left on a covered device that is collected or recovered."

26 **SECTION 8.** G.S. 147-33.104 reads as rewritten:

27 "**§ 147-33.104. (Effective July 1, 2010, until January 1, 2011) Purchase by State agencies**
28 **and governmental entities of certain computer equipment prohibited.**

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

30 (b) No State agency, political subdivision of the State, or other public body shall
31 ~~purchase computer equipment, enter into any contract with a computer equipment manufacturer,~~
32 ~~as defined in G.S. 130A-309.91, from any manufacturer determined not to be that the Secretary~~
33 determines is not in compliance with the requirements of G.S. 130A-309.93 or with a television
34 manufacturer, as defined in G.S. 130A-309.91, that the Secretary determines is not in
35 compliance with the requirements of G.S. 130A-309.93A as determined from the list provided
36 by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.95(1).
37 The Secretary shall issue written findings upon a determination of noncompliance. A
38 determination of noncompliance by the Secretary is reviewable under Article 3 of Chapter
39 150B of the General Statutes.

40 (c) The Office of Information Technology Services shall make the list available to
41 political subdivisions of the State and other public bodies. A computer equipment manufacturer
42 that is not in compliance with the requirements of G.S. 130A-309.93 and a television
43 manufacturer that is not in compliance with the requirements of G.S. 130A-309.93A shall not
44 sell or offer for sale computer equipment to be awarded a contract by the State, a political
45 subdivision of the State, or other public body.

46 (d) In considering bids for any State contract by any computer equipment manufacturer
47 or any television manufacturer, as defined in G.S. 130A-309.91, the State agency, political
48 subdivision of the State, or other public body shall, in addition to any other preferences
49 provided elsewhere under State law, give preference to a computer equipment manufacturer
50 and a television manufacturer that has a program to recover other manufacturers' computer and
51 television equipment, including, but not limited to, collection events, recycling grants, and

1 manufacturer initiatives to take back any brand of computer equipment or television equipment
2 with the purchase of a similar product."

3 **SECTION 9.** This act is effective when it becomes law.