

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

D

SENATE BILL 887
PROPOSED COMMITTEE SUBSTITUTE S887-PCS85231-RG-26

Short Title: Amend Electronics Recycling Law.

(Public)

Sponsors:

Referred to:

March 26, 2009

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 or has licensed to another person for use on computer
31 equipment. ~~Manufacturer~~ Computer equipment manufacturer includes a
32 business entity that acquires another business entity that manufactures or has
33 manufactured computer equipment. Computer equipment manufacturer does
34 not include any existing person that manufactures computer equipment that



* S 8 8 7 - P C S 8 5 2 3 1 - R G - 2 6 *

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

8 a. Owns and licenses the brand appearing on the computer equipment.

9 b. Has not manufactured or sold the computer equipment.

10 (2b) Covered device. – Computer equipment and televisions. The term does not
11 include a device that is:

12 a. Part of a motor vehicle or any component of a motor vehicle
13 assembled by, or for, a vehicle manufacturer or franchised dealer,
14 including replacement parts for use in a motor vehicle.

15 b. (i) Physically a part of or integrated within a larger piece of
16 equipment designed and intended for use in an industrial,
17 governmental, commercial, research and development, or medical
18 setting; (ii) equipment used for diagnostic, monitoring, or other
19 medical products as that term is defined under the Federal Food,
20 Drug, and Cosmetic Act; (iii) equipment used for security, sensing,
21 monitoring, antiterrorism purposes, or emergency services purposes.

22 c. Contained within a household appliance, including, but not limited
23 to, a clothes washer, clothes dryer, refrigerator, refrigerator and
24 freezer, microwave oven, conventional oven or range, dishwasher,
25 room air conditioner, dehumidifier, air purifier, or exercise
26 equipment.

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

30 a. Performs logical, arithmetic, and storage functions for general
31 purpose needs that are met through interaction with a number of
32 software programs contained in the computer.

33 b. Is not designed to exclusively perform a specific type of limited or
34 specialized application.

35 c. Achieves human interface through a stand-alone keyboard,
36 stand-alone monitor or other display unit, and a stand-alone mouse or
37 other pointing device.

38 d. Is designed for a single user.

39 e. Has a main unit that is intended to be persistently located in a single
40 location, often on a desk or on the floor.

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

42 (3a) Discarded television. – A television that is solid waste.

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

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

50 (5a) Market share. – A television manufacturer's obligation to recycle discarded
51 televisions. A television manufacturer's market share is the television

1 manufacturer's prior year's sales of televisions as calculated by the
2 Department pursuant to G.S. 130A-309.95(4) divided by all manufacturers'
3 prior year's sales for all televisions as calculated by the Department pursuant
4 to G.S. 130A-309.95(4). Market share may be expressed as a percentage, a
5 fraction, or a decimal fraction.

6 (5b) Notebook computer. – An electronic, magnetic, optical, electrochemical, or
7 other high-speed data processing device that has all of the following
8 features:

9 a. Performs logical, arithmetic, or storage functions for general purpose
10 needs that are met through interaction with a number of software
11 programs contained in the computer.

12 b. Is not designed to exclusively perform a specific type of limited or
13 specialized application.

14 c. Achieves human interface through a keyboard, video display greater
15 than four inches in size, and mouse or other pointing device, all of
16 which are contained within the construction of the unit that
17 comprises the computer.

18 d. Is able to be carried as one unit by an individual.

19 e. Is able to use external, internal, or batteries for a power source.

20 Notebook computer includes those that have a supplemental stand-alone
21 interface device attached to the notebook computer. Notebook computer
22 does not include a portable handheld calculator, a portable digital assistant
23 (PDA), or similar specialized device. A notebook computer is sometimes
24 referred to as a laptop computer.

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

28 (6a) Recover. – The process of reusing or recycling covered devices.

29 (6b) Recycle. – The processing, including disassembling, dismantling, and
30 shredding, of covered devices or their components to recover a usable
31 product. Recycle does not include any process that results in the incineration
32 of the product.

33 (6c) Recycler. – A person that recycles covered devices.

34 (7) ~~Retailer. – A person that sells computer equipment or televisions in the State~~
35 ~~to a consumer. Retailer includes a manufacturer of computer equipment or~~
36 ~~televisions computer equipment manufacturer or a television manufacturer~~
37 ~~that sells directly to a consumer through any means, including transactions~~
38 ~~conducted through sales outlets, catalogs, the Internet, or any similar~~
39 ~~electronic means, but does not include a person that sells computer~~
40 ~~equipment or televisions to a distributor or retailer through a wholesale~~
41 ~~transaction.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (b) No State agency, political subdivision of the State, or other public body shall
32 ~~purchase computer equipment, enter into any contract with a computer equipment manufacturer,~~
33 ~~as defined in G.S. 130A-309.91, from any manufacturer determined not to be that the Secretary~~
34 ~~determines is not in compliance with the requirements of G.S. 130A-309.93 or with a television~~
35 ~~manufacturer, as defined in G.S. 130A-309.91, that the Secretary determines is not in~~
36 ~~compliance with the requirements of G.S. 130A-309.93A as determined from the list provided~~
37 ~~by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.95(1).~~
38 The Secretary shall issue written findings upon a determination of noncompliance. A
39 determination of noncompliance by the Secretary is reviewable under Article 3 of Chapter
40 150B of the General Statutes.

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

47 (d) In considering bids for any State contract by any computer equipment manufacturer
48 or any television manufacturer, as defined in G.S. 130A-309.91, the State agency, political
49 subdivision of the State, or other public body shall, in addition to any other preferences
50 provided elsewhere under State law, give preference to a computer equipment manufacturer
51 and a television manufacturer that has a program to recover other manufacturers' computer and

1 television equipment, including, but not limited to, collection events, recycling grants, and
2 manufacturer initiatives to take back any brand of computer equipment or television equipment
3 with the purchase of a similar product."

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