

By: Dukes

H.B. No. 595

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a program for the disposition of electronic equipment; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 361, Health and Safety Code, is amended by adding Subchapter W to read as follows:

SUBCHAPTER W. ELECTRONIC EQUIPMENT

Sec. 361.801. DEFINITIONS. In this subchapter:

(1) "Electronic equipment" means a device that is operated primarily by electronic rather than mechanical means or equipment or a device that contains a significant number of components similar to those found in exclusively electronic equipment. The term includes a computer, printer, copier, television, monitor, facsimile machine, or video game player or a device with a computer chip or circuit board.

(2) "Unit of electronic equipment" means an item of electronic equipment that is regularly sold at wholesale or retail and includes an item of electronic equipment that is not completely assembled or is not working if the item contains substantially all of the components that would regularly be found in such an item being sold at wholesale or retail.

Sec. 361.802. RULES. (a) The commission, with the assistance of the comptroller, shall adopt rules to implement the program established by this subchapter.

1        (b) Notwithstanding Section 2001.039, Government Code, the  
2 commission staff annually shall review the rules adopted under this  
3 subchapter to ensure that the rules take into account changes in the  
4 electronics or waste disposal industry.

5        (c) The commission may establish a technical advisory  
6 committee to advise the commission in developing or reviewing rules  
7 under this subchapter.

8        Sec. 361.803. RECYCLING MARKET DEVELOPMENT BOARD. The  
9 Recycling Market Development Board shall:

10        (1) advise the commission and other participants in  
11 the program established by this subchapter with regard to the  
12 implementation of the program; and

13        (2) recommend changes to rules or other matters to  
14 enhance the effectiveness of the program.

15        Sec. 361.804. SUSPENSION OF IMPLEMENTATION OF PROGRAM. (a)  
16 The commission by rule may suspend the implementation of the  
17 program established by this subchapter if the Recycling Market  
18 Development Board determines that the private sector is  
19 implementing an alternative program that complies substantially  
20 with the requirements of this subchapter regarding the disposition  
21 of electronic equipment.

22        (b) The commission by rule may reinstate the implementation  
23 of the program established by this subchapter if the Recycling  
24 Market Development Board subsequently determines that the private  
25 sector is no longer implementing an alternative program that  
26 complies substantially with the requirements of this subchapter  
27 regarding the disposition of electronic equipment.

1       Sec. 361.805. EXEMPTION FOR CERTAIN EQUIPMENT OR  
2 COMPONENTS. The commission by rule may exempt from fees or  
3 disposition requirements under this subchapter electronic  
4 equipment or components that do not contain harmful materials or  
5 that contain de minimis amounts of those materials.

6       Sec. 361.806. INFORMATION REGARDING DISPOSITION OF  
7 ELECTRONIC EQUIPMENT. (a) The commission shall maintain a  
8 toll-free telephone number to allow a person to obtain information  
9 regarding the requirements for disposition of electronic  
10 equipment.

11       (b) A wholesale electronic equipment dealer or a  
12 manufacturer of electronic equipment who sells electronic  
13 equipment at retail shall:

14           (1) attach to any unit of electronic equipment sold in  
15 this state a decal that contains the toll-free telephone number  
16 maintained under Subsection (a) and any other information  
17 prescribed by commission rule; and

18           (2) include with the unit of electronic equipment  
19 information in a form prescribed by the commission describing the  
20 requirements for disposition of electronic equipment.

21       Sec. 361.807. REGISTRATION OF WHOLESALERS AND  
22 MANUFACTURERS OF ELECTRONIC EQUIPMENT. Unless the person holds a  
23 registration issued by the commission under Chapter 37, Water Code,  
24 the person may not engage in business as a wholesale electronic  
25 equipment dealer in this state or a manufacturer of electronic  
26 equipment who sells electronic equipment at retail in this state.

27       Sec. 361.808. FEE ON SALE OF ELECTRONIC EQUIPMENT. (a) A

1 wholesale electronic equipment dealer in this state or a  
2 manufacturer of electronic equipment who sells electronic  
3 equipment at retail in this state shall collect a fee at the time  
4 and place of a sale in this state of a unit of electronic equipment.

5 (b) The amount of the fee is based on the classification of  
6 the unit of electronic equipment. The commission by rule shall  
7 classify units of electronic equipment as follows:

8 (1) Class A: a unit of electronic equipment with  
9 minimal disposition costs;

10 (2) Class B: a unit of electronic equipment with  
11 moderate disposition costs; or

12 (3) Class C: a unit of electronic equipment with high  
13 disposition costs.

14 (c) The commission by rule shall determine the amount of the  
15 fee for each class of units of electronic equipment. The commission  
16 shall set the fees in amounts sufficient to cover the cost of  
17 administering this subchapter. The fee for units of electronic  
18 equipment classified as Class B shall exceed the fee for units of  
19 electronic equipment classified as Class A, and the fee for units of  
20 electronic equipment classified as Class C shall exceed the fee for  
21 units of electronic equipment classified as Class B.

22 (d) The commission by rule shall establish a procedure by  
23 which a person may appeal a commission rule regarding:

24 (1) the fee class that applies to a unit of electronic  
25 equipment; or

26 (2) the eligibility of electronic equipment or a  
27 component for an exemption from this section.

1       (e) A person required to collect a fee under this section  
2 shall remit fees collected to the comptroller together with  
3 documentation identifying:

4           (1) the manufacturers of the units of electronic  
5 equipment on which the fees are imposed;

6           (2) the classes of the units of equipment sold; and

7           (3) the number of units of equipment of each class  
8 sold.

9       (f) The comptroller shall collect from each manufacturer of  
10 electronic equipment for which a wholesale dealer collects a fee  
11 under this section an additional fee equal to the amount of the fee  
12 collected by the wholesale dealer.

13       (g) The comptroller shall deposit the fees collected by the  
14 comptroller under this section to the credit of the electronic  
15 equipment disposition account established under Section 361.809.

16       (h) The commission, with the assistance of the comptroller,  
17 shall adopt rules for the implementation of this section, including  
18 rules governing:

19           (1) the types of sales of electronic equipment that  
20 are subject to this section;

21           (2) the manner in which records of the sale of  
22 electronic equipment are kept and submitted to the commission; and

23           (3) the manner in which fees are collected, remitted,  
24 and deposited under this section.

25       Sec. 361.809. ELECTRONIC EQUIPMENT DISPOSITION ACCOUNT.

26       (a) The electronic equipment disposition account is an account in  
27 the general revenue fund that may be appropriated only to the

1 commission to:

2 (1) make payments to registered electronic equipment  
3 disposition specialists for the proper disposition of electronic  
4 equipment;

5 (2) make low-interest loans to registered electronic  
6 equipment disposition specialists to be used to make improvements  
7 necessary to bring their facilities into compliance with rules  
8 adopted under this subchapter and other laws governing the  
9 disposition of electronic equipment;

10 (3) make grants to organizations for research on the  
11 manner for disposing of electronic equipment;

12 (4) annually reimburse the comptroller for the  
13 administrative costs incurred by the comptroller in implementing  
14 and enforcing this subchapter, which costs may not exceed six  
15 percent of the amount deposited to the credit of the account during  
16 that year; and

17 (5) pay the administrative costs incurred by the  
18 commission in implementing and enforcing this subchapter,  
19 including the costs of:

20 (A) training landfill operators and registered  
21 electronic equipment disposition specialists; and

22 (B) developing training materials for use by  
23 electronic equipment disposition specialists in preparing for  
24 registration.

25 (b) The commission may not use more than six percent of the  
26 amount deposited to the credit of the account to pay costs described  
27 by Subsection (a)(5).

1       (c) The commission may defer the making of payments, loans,  
2 or grants from the account until the balance in the account reaches  
3 an amount determined by the commission.

4       (d) The commission by rule shall specify the manner in which  
5 payments, loans, or grants from the account are made.

6       Sec. 361.810. PUBLICATION OF INFORMATION DEVELOPED WITH  
7 GRANTS. Information developed by a recipient of a grant under  
8 Section 361.809(a)(3) shall be made available to the commission for  
9 dissemination to the public.

10       Sec. 361.811. GIFTS, DONATIONS, AND GRANTS. The commission  
11 may accept gifts, donations, and grants from any source for the  
12 benefit of the electronic equipment disposition account.

13       Sec. 361.812. REPORTING TO LEGISLATURE AND RECYCLING MARKET  
14 DEVELOPMENT BOARD. The commission shall report to the legislature  
15 and the Recycling Market Development Board annually on the status  
16 of the implementation of the program established by this  
17 subchapter.

18       Sec. 361.813. REGISTRATION OF ELECTRONIC EQUIPMENT  
19 DISPOSITION SPECIALISTS. Unless the person holds a registration  
20 issued by the commission under Chapter 37, Water Code, a person may  
21 not act as an electronic equipment disposition specialist.

22       Sec. 361.814. DISPOSITION OF ELECTRONIC EQUIPMENT. (a) A  
23 person may not dispose of electronic equipment except by delivery  
24 to a registered electronic equipment disposition specialist.

25       (b) A registered electronic equipment disposition  
26 specialist shall accept for disposition all electronic equipment  
27 delivered to the specialist by any source, subject to any

1 restrictions regarding:

2 (1) the volume of equipment that is appropriate for  
3 the facility operated by the specialist; and

4 (2) the manner in which equipment must be delivered to  
5 the specialist.

6 (c) A registered electronic equipment disposition  
7 specialist shall dispose of electronic equipment delivered to the  
8 specialist in a manner authorized by commission rule. The rules  
9 shall prohibit disposing of electronic equipment by burial in a  
10 landfill or by incineration.

11 Sec. 361.815. REIMBURSEMENT OF REGISTERED ELECTRONIC  
12 EQUIPMENT DISPOSITION SPECIALIST. (a) A registered electronic  
13 equipment disposition specialist shall keep a record in the manner  
14 provided by commission rules of each unit of electronic equipment  
15 disposed of by the specialist. The commission shall verify the  
16 accuracy of the records.

17 (b) The commission, on application, shall reimburse a  
18 registered electronic equipment disposition specialist from the  
19 electronic equipment disposition account an amount determined by  
20 the commission for each unit of electronic equipment disposed of by  
21 the specialist. The amount the specialist may be reimbursed is  
22 based on the classification of the unit of electronic equipment  
23 under Section 361.808(b). The commission by rule shall set the  
24 reimbursement amount for each class of units of electronic  
25 equipment, with the reimbursement amount for units of equipment  
26 classified as Class B exceeding the reimbursement amount for units  
27 of equipment classified as Class A and the reimbursement amount for



1 units of equipment classified as Class C exceeding the  
2 reimbursement amount for units of equipment classified as Class B.

3 (c) The commission shall make reimbursements to registered  
4 electronic equipment disposition specialists quarterly.

5 SECTION 2. Subchapter E, Chapter 7, Water Code, is amended  
6 by adding Section 7.1855 to read as follows:

7 Sec. 7.1855. VIOLATIONS RELATING TO DISPOSAL OF ELECTRONIC  
8 EQUIPMENT. (a) In this section, "electronic equipment" has the  
9 meaning assigned by Section 361.801, Health and Safety Code.

10 (b) A person commits an offense if the person:

11 (1) knowingly disposes of electronic equipment or a  
12 component of electronic equipment in a manner not authorized by  
13 rules adopted under Subchapter W, Chapter 361, Health and Safety  
14 Code;

15 (2) knowingly exports electronic equipment or a  
16 component of electronic equipment to a final destination in  
17 violation of the Basel Convention on the Control of Transboundary  
18 Movements of Hazardous Wastes and Their Disposal;

19 (3) intentionally keeps false records of electronic  
20 equipment accepted for disposition; or

21 (4) intentionally falsifies a request for  
22 reimbursement for disposing of electronic equipment.

23 (c) An offense under this section is a Class C misdemeanor.

24 SECTION 3. Sections 37.002 and 37.003, Water Code, are  
25 amended to read as follows:

26 Sec. 37.002. RULES. The commission shall adopt any rules  
27 necessary to:

1           (1) establish occupational licenses and registrations  
2 prescribed by Sections 26.0301, 26.3573, 26.452, 26.456, and 34.007  
3 of this code and Sections 341.033, 341.034, 361.027, 361.807,  
4 361.813, and 366.071, Health and Safety Code;

5           (2) establish classes and terms of occupational  
6 licenses and registrations; and

7           (3) administer the provisions of this chapter and  
8 other laws governing occupational licenses and registrations under  
9 the commission's jurisdiction.

10           Sec. 37.003. LICENSE OR REGISTRATION REQUIRED. A person  
11 may not engage in a business, occupation, or profession described  
12 by Section 26.0301, 26.3573, 26.452, 26.456, or 34.007 of this code  
13 or Section 341.033, 341.034, 361.027, 361.807, 361.813, 366.014,  
14 or 366.071, Health and Safety Code, unless the person holds the  
15 appropriate license or registration issued by the commission.

16           SECTION 4. (a) This Act takes effect September 1, 2003.

17           (b) The Texas Commission on Environmental Quality shall  
18 adopt rules under this Act not later than March 1, 2004.

19           (c) A person is not required to be registered under Section  
20 361.807 or 361.813, Health and Safety Code, as added by this Act,  
21 until March 1, 2004.

22           (d) Notwithstanding Subsection (c) of this section:

23           (1) a person who is engaged in business as a wholesale  
24 electronic equipment dealer in this state or a manufacturer of  
25 electronic equipment who sells electronic equipment at retail in  
26 this state before March 1, 2004, and who applies for a registration  
27 before that date may continue to engage in that business until the

1 commission acts on the person's application; and

2           (2) a person who acts as an electronic equipment  
3 disposition specialist before March 1, 2004, and who applies for a  
4 registration before that date may continue to act in that capacity  
5 until the commission acts on the person's application.