

SENATE AMENDMENTS

2nd Printing

By: Bonnen, Gattis, Rodriguez, Crabb,
Leibowitz, et al.

H.B. No. 2714

A BILL TO BE ENTITLED

AN ACT

relating to a program for the recycling of computer equipment of consumers in this state; providing administrative penalties.

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

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

SUBCHAPTER Y. COMPUTER EQUIPMENT RECYCLING PROGRAM

Sec. 361.951. SHORT TITLE. This subchapter may be cited as the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act.

Sec. 361.952. DEFINITIONS. In this subchapter:

(1) "Brand" means the name, symbol, logo, trademark, or other information that identifies a product rather than the components of the product.

(2) "Computer equipment" means a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner.

(3) "Manufacturer" means a person:

(A) who manufactures or manufactured computer equipment under a brand that:

(i) the person owns or owned; or

(ii) the person is or was licensed to use, other than under a license to manufacture computer equipment for delivery exclusively to or at the order of the licensor;

1 (B) who sells or sold computer equipment
2 manufactured by others under a brand that:

3 (i) the person owns or owned; or

4 (ii) the person is or was licensed to use,
5 other than under a license to manufacture computer equipment for
6 delivery exclusively to or at the order of the licensor;

7 (C) who manufactures or manufactured computer
8 equipment without affixing a brand;

9 (D) who manufactures or manufactured computer
10 equipment to which the person affixes or affixed a brand that:

11 (i) the person does not or has not owned; or

12 (ii) the person is not or was not licensed
13 to use; or

14 (E) for whose account computer equipment
15 manufactured outside the United States is or was imported into the
16 United States, if at the time of importation the computer equipment
17 was not included for collection under the recovery plan of another
18 person.

19 (4) "Television" means any telecommunication system
20 device that can broadcast or receive moving pictures and sound over
21 a distance and includes a television tuner or a display device
22 peripheral to a computer that contains a television tuner.

23 Sec. 361.953. LEGISLATIVE FINDINGS AND PURPOSE. (a)
24 Computers and related display devices are critical elements to the
25 strength and growth of this state's economic prosperity and quality
26 of life. Many of those products can be refurbished and reused, and
27 many contain valuable components that can be recycled.

1 (b) The purpose of this subchapter is to establish a
2 comprehensive, convenient, and environmentally sound program for
3 the collection, recycling, and reuse of computer equipment that has
4 reached the end of its useful life. The program is based on
5 individual manufacturer responsibility and shared responsibility
6 among consumers, retailers, and the government of this state.

7 Sec. 361.954. APPLICABILITY. (a) The collection,
8 recycling, and reuse provisions of this subchapter apply to
9 computer equipment used and returned to the manufacturer by a
10 consumer in this state.

11 (b) This subchapter does not apply to:

12 (1) a television, any part of a motor vehicle, a
13 personal digital assistant, or a telephone;

14 (2) a consumer's lease of computer equipment or a
15 consumer's use of computer equipment under a lease agreement; or

16 (3) the sale or lease of computer equipment to a
17 business.

18 Sec. 361.955. MANUFACTURER RESPONSIBILITIES. (a) Before a
19 manufacturer may offer computer equipment for sale in this state,
20 the manufacturer must:

21 (1) adopt and implement a recovery plan; and

22 (2) affix a permanent, readily visible label to the
23 computer equipment with the manufacturer's brand.

24 (b) The recovery plan must include, at no charge to the
25 consumer, provisions for:

26 (1) the manufacturer's collection from a consumer of
27 any computer equipment that has reached the end of its useful life

1 and is labeled with the manufacturer's brand; and

2 (2) recycling or reuse of computer equipment collected
3 under Subdivision (1).

4 (c) The collection of computer equipment provided under the
5 recovery plan must be:

6 (1) reasonably convenient and available to consumers
7 in this state; and

8 (2) designed to meet the collection needs of consumers
9 in this state.

10 (d) Collection methods that meet the convenience
11 requirements of this section include:

12 (1) a system by which the manufacturer or the
13 manufacturer's designee offers the consumer a system for returning
14 computer equipment by mail;

15 (2) a system using a physical collection site that the
16 manufacturer or the manufacturer's designee keeps open and staffed
17 and to which the consumer may return computer equipment; and

18 (3) a system using a collection event held by the
19 manufacturer or the manufacturer's designee at which the consumer
20 may return computer equipment.

21 (e) Collection services under this section may use existing
22 collection and consolidation infrastructure for handling computer
23 equipment and may include electronic recyclers and repair shops,
24 recyclers of other commodities, reuse organizations,
25 not-for-profit corporations, retailers, recyclers, and other
26 suitable operations.

27 (f) The recovery plan must include information for the

1 consumer on how and where to return the manufacturer's computer
2 equipment. The manufacturer:

3 (1) shall include collection, recycling, and reuse
4 information on the manufacturer's publicly available Internet
5 site;

6 (2) shall provide collection, recycling, and reuse
7 information to the commission; and

8 (3) may include collection, recycling, and reuse
9 information in the packaging for or in other materials that
10 accompany the manufacturer's computer equipment when the equipment
11 is sold.

12 (g) Information about collection, recycling, and reuse on a
13 manufacturer's publicly available Internet site does not
14 constitute a determination by the commission that the
15 manufacturer's recovery plan or actual practices are in compliance
16 with this subchapter or other law.

17 (h) Each manufacturer shall submit a report to the
18 commission not later than January 31 of each year that includes:

19 (1) the weight of computer equipment collected,
20 recycled, and reused during the preceding calendar year; and

21 (2) documentation verifying the collection,
22 recycling, and reuse of that computer equipment in a manner that
23 complies with Section 361.964 regarding sound environmental
24 management.

25 (i) If more than one person is a manufacturer of a certain
26 brand of computer equipment as defined by Section 361.952, any of
27 those persons may assume responsibility for and satisfy the

1 obligations of a manufacturer under this subchapter for that brand.
2 If none of those persons assumes responsibility or satisfies the
3 obligations of a manufacturer for the computer equipment of that
4 brand, the commission may consider any of those persons to be the
5 responsible manufacturer for purposes of this subchapter.

6 (j) The obligations under this subchapter of a manufacturer
7 who manufactures or manufactured computer equipment, or sells or
8 sold computer equipment manufactured by others, under a brand that
9 was previously used by a different person in the manufacture of the
10 computer equipment extends to all computer equipment bearing that
11 brand regardless of its date of manufacture.

12 Sec. 361.956. RETAILER RESPONSIBILITY. A person who is a
13 retailer of computer equipment may not sell or offer to sell
14 computer equipment in this state unless the equipment is labeled
15 with the manufacturer's label and the manufacturer is included on
16 the commission's list of manufacturers that have recovery plans.

17 Sec. 361.957. LIABILITY. (a) A manufacturer or retailer of
18 computer equipment is not liable in any way for information in any
19 form that a consumer leaves on computer equipment that is
20 collected, recycled, or reused under this subchapter.

21 (b) This subchapter does not exempt a person from liability
22 under other law.

23 Sec. 361.958. COMMISSION'S EDUCATION RESPONSIBILITIES.

24 (a) The commission shall educate consumers regarding the
25 collection, recycling, and reuse of computer equipment.

26 (b) The commission shall host or designate another person to
27 host an Internet site providing consumers with information about

1 the recycling and reuse of computer equipment, including
2 information about and links to information on:

3 (1) manufacturers' collection, recycling, and reuse
4 programs, including manufacturers' recovery plans; and

5 (2) computer equipment collection events, collection
6 sites, and community computer equipment recycling and reuse
7 programs.

8 (c) Inclusion on the commission's Internet site under
9 Subsection (b) does not constitute a determination by the
10 commission that the manufacturer's recovery plan or practices are
11 in compliance with this subchapter or other law.

12 Sec. 361.959. ENFORCEMENT. (a) The commission may conduct
13 audits and inspections to determine compliance with this
14 subchapter.

15 (b) The commission and the attorney general, as
16 appropriate, shall enforce this subchapter and take enforcement
17 action against any manufacturer, retailer, or person who recycles
18 or reuses computer equipment for failure to comply with this
19 subchapter.

20 (c) Notwithstanding Section 7.052, Water Code, a
21 manufacturer that does not label its new computer equipment or
22 adopt and implement a recovery plan as required by Section
23 361.955(a) may be assessed an administrative penalty, in addition
24 to any other penalty under this subchapter, of not more than \$10,000
25 for the first violation and not more than \$25,000 for each
26 subsequent violation.

27 (d) Except as provided by Subsection (c) and

1 notwithstanding Section 7.052, Water Code, a person who violates
2 this subchapter may be assessed an administrative penalty, in
3 addition to any other penalty under this subchapter, of not more
4 than \$1,000 for the first violation and not more than \$2,000 for
5 each subsequent violation.

6 (e) A penalty assessed under this section shall be paid to
7 the commission and deposited to the Waste Management Account, #549.

8 (f) A violation of a prohibition of this subchapter related
9 to sales may be enjoined in an action brought by the attorney
10 general on behalf of this state under Section 7.032, Water Code.

11 (g) Money collected under this section may be used only for
12 the administration of this subchapter.

13 Sec. 361.960. FINANCIAL AND PROPRIETARY INFORMATION.
14 Financial or proprietary information submitted to the commission
15 under this subchapter is exempt from public disclosure under
16 Chapter 552, Government Code.

17 Sec. 361.961. ANNUAL REPORT TO LEGISLATURE. The commission
18 shall compile information from producers and issue an electronic
19 report to the committee in each house of the legislature having
20 primary jurisdiction over environmental matters not later than
21 March 1 of each year.

22 Sec. 361.962. FEES NOT AUTHORIZED. This subchapter does
23 not authorize the commission to impose a fee, including a recycling
24 fee or registration fee, on a consumer, manufacturer, retailer, or
25 person who recycles or reuses computer equipment.

26 Sec. 361.963. CONSUMER RESPONSIBILITIES. (a) A consumer
27 is responsible for any information in any form left on the

1 consumer's computer equipment that is collected, recycled, or
2 reused.

3 (b) A consumer is encouraged to learn about recommended
4 methods for recycling and reuse of computer equipment that has
5 reached the end of its useful life by visiting the commission's and
6 manufacturers' Internet sites.

7 Sec. 361.964. SOUND ENVIRONMENTAL MANAGEMENT. (a) All
8 computer equipment collected under this subchapter must be recycled
9 or reused in a manner that complies with federal, state, and local
10 law.

11 (b) The commission shall adopt as standards for recycling or
12 reuse of computer equipment in this state the standards provided by
13 "Electronics Recycling Operating Practices" as approved by the
14 board of directors of the Institute of Scrap Recycling Industries,
15 Inc., April 25, 2006, or other standards from a comparable
16 nationally recognized organization.

17 Sec. 361.965. STATE PROCUREMENT REQUIREMENTS. (a) In this
18 section, "state agency" has the meaning assigned by Section
19 2052.101, Government Code.

20 (b) A person who submits a bid for a contract with a state
21 agency for the purchase or lease of computer equipment must be in
22 compliance with this subchapter.

23 (c) A state agency that purchases or leases computer
24 equipment shall require each prospective bidder to certify the
25 bidder's compliance with this subchapter. Failure to provide that
26 certification renders the prospective bidder ineligible to
27 participate in the bidding.

1 (d) In considering bids for a contract for computer
2 equipment, in addition to any other preferences provided under
3 other laws of this state, the state shall give special preference to
4 a manufacturer that has a program to recycle or reuse the computer
5 equipment of other manufacturers, including collection events,
6 recycling grants, and manufacturer initiatives to accept computer
7 equipment labeled with another manufacturer's brand.

8 (e) The Texas Building and Procurement Commission and the
9 Department of Information Resources shall adopt rules to implement
10 this section.

11 Sec. 361.966. FEDERAL PREEMPTION; EXPIRATION. (a) If
12 federal law establishes a national program for the collection and
13 recycling of computer equipment and the commission determines that
14 the federal law substantially meets the purposes of this
15 subchapter, the commission may adopt an agency statement that
16 interprets the federal law as preemptive of this subchapter.

17 (b) This subchapter expires on the date the commission
18 issues a statement under this section.

19 SECTION 2. (a) The Texas Commission on Environmental
20 Quality shall adopt any rules required to implement this Act not
21 later than May 1, 2008.

22 (b) This Act may not be enforced before September 1, 2008.

23 (c) The reports required under Sections 361.955 and
24 361.961, Health and Safety Code, as added by this Act, are not
25 required to be prepared or submitted for the first time before the
26 dates specified by those sections in 2010.

27 SECTION 3. This Act takes effect September 1, 2007.

ADOPTED

MAY 22 1987

Henry D. Watson
Secretary of the Senate
BY: *Henry D. Watson*
(Watson)

FLOOR AMENDMENT NO. 1

1 Amend H.B. 2714 (Senate Committee Printing) by striking all
2 below the enacting clause and substituting the following:

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

5 SUBCHAPTER Y. COMPUTER EQUIPMENT RECYCLING PROGRAM

6 Sec. 361.951. SHORT TITLE. This subchapter may be cited as
7 the Manufacturer Responsibility and Consumer Convenience Computer
8 Equipment Collection and Recovery Act.

9 Sec. 361.952. DEFINITIONS. In this subchapter:

10 (1) "Brand" means the name, symbol, logo, trademark,
11 or other information that identifies a product rather than the
12 components of the product.

13 (2) "Computer equipment" means a desktop or notebook
14 computer and includes a computer monitor or other display device
15 that does not contain a tuner.

16 (3) "Consumer" means an individual who uses computer
17 equipment that is purchased primarily for personal or home business
18 use.

19 (4) "Manufacturer" means a person:

20 (A) who manufactures or manufactured computer
21 equipment under a brand that:

22 (i) the person owns or owned; or

23 (ii) the person is or was licensed to use,
24 other than under a license to manufacture computer equipment for
25 delivery exclusively to or at the order of the licensor;

26 (B) who sells or sold computer equipment
27 manufactured by others under a brand that:

28 (i) the person owns or owned; or

29 (ii) the person is or was licensed to use,

1 other than under a license to manufacture computer equipment for
2 delivery exclusively to or at the order of the licensor;

3 (C) who manufactures or manufactured computer
4 equipment without affixing a brand;

5 (D) who manufactures or manufactured computer
6 equipment to which the person affixes or affixed a brand that:

7 (i) the person does not or has not owned; or

8 (ii) the person is not or was not licensed
9 to use; or

10 (E) who imports or imported computer equipment
11 manufactured outside the United States into the United States
12 unless at the time of importation the company or licensee that sells
13 or sold the computer equipment to the importer has or had assets or
14 a presence in the United States sufficient to be considered the
15 manufacturer.

16 (5) "Television" means any telecommunication system
17 device that can broadcast or receive moving pictures and sound over
18 a distance and includes a television tuner or a display device
19 peripheral to a computer that contains a television tuner.

20 Sec. 361.953. LEGISLATIVE FINDINGS AND PURPOSE.

21 (a) Computers and related display devices are critical elements to
22 the strength and growth of this state's economic prosperity and
23 quality of life. Many of those products can be refurbished and
24 reused, and many contain valuable components that can be recycled.

25 (b) The purpose of this subchapter is to establish a
26 comprehensive, convenient, and environmentally sound program for
27 the collection, recycling, and reuse of computer equipment that has
28 reached the end of its useful life. The program is based on
29 individual manufacturer responsibility and shared responsibility
30 among consumers, retailers, and the government of this state.

31 Sec. 361.954. APPLICABILITY. (a) The collection,

1 recycling, and reuse provisions of this subchapter apply to
2 computer equipment used and returned to the manufacturer by a
3 consumer in this state and do not impose any obligation on an owner
4 or operator of a solid waste facility.

5 (b) This subchapter does not apply to:

6 (1) a television, any part of a motor vehicle, a
7 personal digital assistant, or a telephone;

8 (2) a consumer's lease of computer equipment or a
9 consumer's use of computer equipment under a lease agreement; or

10 (3) the sale or lease of computer equipment to an
11 entity when the manufacturer and the entity enter into a contract
12 that effectively addresses the collection, recycling, and reuse of
13 computer equipment that has reached the end of its useful life.

14 Sec. 361.955. MANUFACTURER RESPONSIBILITIES. (a) Before
15 a manufacturer may offer computer equipment for sale in this state,
16 the manufacturer must:

17 (1) adopt and implement a recovery plan; and

18 (2) affix a permanent, readily visible label to the
19 computer equipment with the manufacturer's brand.

20 (b) The recovery plan must enable a consumer to recycle
21 computer equipment without paying a separate fee at the time of
22 recycling and must include provisions for:

23 (1) the manufacturer's collection from a consumer of
24 any computer equipment that has reached the end of its useful life
25 and is labeled with the manufacturer's brand; and

26 (2) recycling or reuse of computer equipment collected
27 under Subdivision (1).

28 (c) The collection of computer equipment provided under the
29 recovery plan must be:

30 (1) reasonably convenient and available to consumers
31 in this state; and

1 (2) designed to meet the collection needs of consumers
2 in this state.

3 (d) Examples of collection methods that alone or combined
4 meet the convenience requirements of this section include:

5 (1) a system by which the manufacturer or the
6 manufacturer's designee offers the consumer a system for returning
7 computer equipment by mail;

8 (2) a system using a physical collection site that the
9 manufacturer or the manufacturer's designee keeps open and staffed
10 and to which the consumer may return computer equipment; and

11 (3) a system using a collection event held by the
12 manufacturer or the manufacturer's designee at which the consumer
13 may return computer equipment.

14 (e) Collection services under this section may use existing
15 collection and consolidation infrastructure for handling computer
16 equipment and may include electronic recyclers and repair shops,
17 recyclers of other commodities, reuse organizations,
18 not-for-profit corporations, retailers, recyclers, and other
19 suitable operations.

20 (f) The recovery plan must include information for the
21 consumer on how and where to return the manufacturer's computer
22 equipment. The manufacturer:

23 (1) shall include collection, recycling, and reuse
24 information on the manufacturer's publicly available Internet
25 site;

26 (2) shall provide collection, recycling, and reuse
27 information to the commission; and

28 (3) may include collection, recycling, and reuse
29 information in the packaging for or in other materials that
30 accompany the manufacturer's computer equipment when the equipment
31 is sold.

1 (g) Information about collection, recycling, and reuse on a
2 manufacturer's publicly available Internet site does not
3 constitute a determination by the commission that the
4 manufacturer's recovery plan or actual practices are in compliance
5 with this subchapter or other law.

6 (h) Each manufacturer shall submit a report to the
7 commission not later than January 31 of each year that includes:

8 (1) the weight of computer equipment collected,
9 recycled, and reused during the preceding calendar year; and

10 (2) documentation verifying the collection,
11 recycling, and reuse of that computer equipment in a manner that
12 complies with Section 361.964 regarding sound environmental
13 management.

14 (i) If more than one person is a manufacturer of a certain
15 brand of computer equipment as defined by Section 361.952, any of
16 those persons may assume responsibility for and satisfy the
17 obligations of a manufacturer under this subchapter for that brand.
18 If none of those persons assumes responsibility or satisfies the
19 obligations of a manufacturer for the computer equipment of that
20 brand, the commission may consider any of those persons to be the
21 responsible manufacturer for purposes of this subchapter.

22 (j) The obligations under this subchapter of a manufacturer
23 who manufactures or manufactured computer equipment, or sells or
24 sold computer equipment manufactured by others, under a brand that
25 was previously used by a different person in the manufacture of the
26 computer equipment extends to all computer equipment bearing that
27 brand regardless of its date of manufacture.

28 Sec. 361.956. RETAILER RESPONSIBILITY. (a) A person who
29 is a retailer of computer equipment may not sell or offer to sell
30 new computer equipment in this state unless the equipment is
31 labeled with the manufacturer's label and the manufacturer is

1 included on the commission's list of manufacturers that have
2 recovery plans.

3 (b) Retailers can go to the commission's Internet site as
4 outlined in Section 361.958 and view all manufacturers that are
5 listed as having registered a compliant collection program.
6 Covered electronic products from manufacturers on that list may be
7 sold in or into the State of Texas.

8 (c) A retailer is not required to collect computer equipment
9 for recycling or reuse under this subchapter.

10 Sec. 361.957. LIABILITY. (a) A manufacturer or retailer
11 of computer equipment is not liable in any way for information in
12 any form that a consumer leaves on computer equipment that is
13 collected, recycled, or reused under this subchapter.

14 (b) This subchapter does not exempt a person from liability
15 under other law.

16 Sec. 361.958. COMMISSION'S EDUCATION RESPONSIBILITIES.
17 (a) The commission shall educate consumers regarding the
18 collection, recycling, and reuse of computer equipment.

19 (b) The commission shall host or designate another person to
20 host an Internet site providing consumers with information about
21 the recycling and reuse of computer equipment, including best
22 management practices and information about and links to information
23 on:

24 (1) manufacturers' collection, recycling, and reuse
25 programs, including manufacturers' recovery plans; and

26 (2) computer equipment collection events, collection
27 sites, and community computer equipment recycling and reuse
28 programs.

29 Sec. 361.959. ENFORCEMENT. (a) The commission may conduct
30 audits and inspections to determine compliance with this
31 subchapter.

1 (b) The commission and the attorney general, as
2 appropriate, shall enforce this subchapter and, except as provided
3 by Subsections (d) and (e), take enforcement action against any
4 manufacturer, retailer, or person who recycles or reuses computer
5 equipment for failure to comply with this subchapter.

6 (c) The attorney general may file suit under Section 7.032,
7 Water Code, to enjoin an activity related to the sale of computer
8 equipment in violation of this subchapter.

9 (d) The commission shall issue a warning notice to a person
10 on the person's first violation of this subchapter. The person must
11 comply with this subchapter not later than the 60th day after the
12 date the warning notice is issued.

13 (e) A retailer who receives a warning notice from the
14 commission that the retailer's inventory violates this subchapter
15 because it includes computer equipment from a manufacturer that has
16 not submitted the recovery plan required by Section 361.955 must
17 bring the inventory into compliance with this subchapter not later
18 than the 60th day after the date the warning notice is issued.

19 Sec. 361.960. FINANCIAL AND PROPRIETARY INFORMATION.
20 Financial or proprietary information submitted to the commission
21 under this subchapter is exempt from public disclosure under
22 Chapter 552, Government Code.

23 Sec. 361.961. ANNUAL REPORT TO LEGISLATURE. The commission
24 shall compile information from manufacturers and issue an
25 electronic report to the committee in each house of the legislature
26 having primary jurisdiction over environmental matters not later
27 than March 1 of each year.

28 Sec. 361.962. FEES NOT AUTHORIZED. This subchapter does
29 not authorize the commission to impose a fee, including a recycling
30 fee or registration fee, on a consumer, manufacturer, retailer, or
31 person who recycles or reuses computer equipment.

1 Sec. 361.963. CONSUMER RESPONSIBILITIES. (a) A consumer
2 is responsible for any information in any form left on the
3 consumer's computer equipment that is collected, recycled, or
4 reused.

5 (b) A consumer is encouraged to learn about recommended
6 methods for recycling and reuse of computer equipment that has
7 reached the end of its useful life by visiting the commission's and
8 manufacturers' Internet sites.

9 Sec. 361.964. SOUND ENVIRONMENTAL MANAGEMENT. (a) All
10 computer equipment collected under this subchapter must be recycled
11 or reused in a manner that complies with federal, state, and local
12 law.

13 (b) The commission shall adopt as standards for recycling or
14 reuse of computer equipment in this state the standards provided by
15 "Electronics Recycling Operating Practices" as approved by the
16 board of directors of the Institute of Scrap Recycling Industries,
17 Inc., April 25, 2006, or other standards from a comparable
18 nationally recognized organization.

19 Sec. 361.965. STATE PROCUREMENT REQUIREMENTS. (a) In this
20 section, "state agency" has the meaning assigned by Section
21 2052.101, Government Code.

22 (b) A person who submits a bid for a contract with a state
23 agency for the purchase or lease of computer equipment must be in
24 compliance with this subchapter.

25 (c) A state agency that purchases or leases computer
26 equipment shall require each prospective bidder to certify the
27 bidder's compliance with this subchapter. Failure to provide that
28 certification renders the prospective bidder ineligible to
29 participate in the bidding.

30 (d) In considering bids for a contract for computer
31 equipment, in addition to any other preferences provided under

1 other laws of this state, the state shall give special preference to
2 a manufacturer that has a program to recycle the computer equipment
3 of other manufacturers, including collection events and
4 manufacturer initiatives to accept computer equipment labeled with
5 another manufacturer's brand.

6 (e) The Texas Building and Procurement Commission and the
7 Department of Information Resources shall adopt rules to implement
8 this section.

9 Sec. 361.966. FEDERAL PREEMPTION; EXPIRATION. (a) If
10 federal law establishes a national program for the collection and
11 recycling of computer equipment and the commission determines that
12 the federal law substantially meets the purposes of this
13 subchapter, the commission may adopt an agency statement that
14 interprets the federal law as preemptive of this subchapter.

15 (b) This subchapter expires on the date the commission
16 issues a statement under this section.

17 SECTION 2. Section 7.052, Water Code, is amended by adding
18 Subsections (b-1) and (b-2) to read as follows:

19 (b-1) The amount of the penalty assessed against a
20 manufacturer that does not label its computer equipment or adopt
21 and implement a recovery plan as required by Section 361.955,
22 Health and Safety Code, may not exceed \$10,000 for the second
23 violation or \$25,000 for each subsequent violation. A penalty
24 under this subsection is in addition to any other penalty that may
25 be assessed for a violation of Subchapter Y, Chapter 361, Health and
26 Safety Code.

27 (b-2) Except as provided by Subsection (b-1), the amount of
28 the penalty for a violation of Subchapter Y, Chapter 361, Health and
29 Safety Code, may not exceed \$1,000 for the second violation or
30 \$2,000 for each subsequent violation. A penalty under this
31 subsection is in addition to any other penalty that may be assessed

1 for a violation of Subchapter Y, Chapter 361, Health and Safety
2 Code.

3 SECTION 3. Section 7.069, Water Code, is amended to read as
4 follows:

5 Sec. 7.069. DISPOSITION OF PENALTY. (a) Except as
6 provided by Subsection (b), a [A] penalty collected under this
7 subchapter shall be deposited to the credit of the general revenue
8 fund.

9 (b) A penalty collected under Section 7.052(b-1) or (b-2)
10 shall be paid to the commission and deposited to the credit of the
11 waste management account.

12 SECTION 4. (a) The Texas Commission on Environmental
13 Quality shall adopt any rules required to implement this Act not
14 later than May 1, 2008.

15 (b) This Act may not be enforced before September 1, 2008.

16 (c) The reports required under Sections 361.955 and
17 361.961, Health and Safety Code, as added by this Act, are not
18 required to be prepared or submitted for the first time before the
19 dates specified by those sections in 2010.

20 (d) Notwithstanding the 60-day limit under Section
21 361.959(d) or (e), Health and Safety Code, as added by this Act, a
22 retailer may sell any inventory accrued before the effective date
23 of this Act without incurring a penalty.

24 SECTION 5. This Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2714 by Bonnen (Relating to a program for the recycling of computer equipment of consumers in this state; providing administrative penalties.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would establish a computer equipment recycling program requiring computer manufacturers to establish free and convenient programs to collect and recycle their own brand of computers sold to consumers. Retailers would only be allowed to sell brands of computers that appear on a list of manufacturers with recovery programs. This list would be maintained by the Texas Commission on Environmental Quality (TCEQ). In addition, the TCEQ would be required to educate the public regarding the computer recycling program, maintain program information on a web site, enforce requirements for recycling computer equipment, and compile and issue an annual electronic report to the Legislature. The Department of Information Resources (DIR) and the Texas Building and Procurement Commission (TBPC) would be required to adopt rules to ensure compliance by state agencies. Penalties for violations would be deposited to the credit of the General Revenue-Dedicated Waste Management Account No. 549.

Although the TCEQ, the DIR, and the TBPC could incur some administrative costs in implementing the provisions of the bill, these costs are not expected to be significant.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 303 Building and Procurement Commission, 313 Department of Information Resources, 582 Commission on Environmental Quality

LBB Staff: JOB, WK, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 12, 2007

TO: Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2714 by Bonnen (Relating to a program for the recycling of computer equipment of consumers in this state; providing administrative penalties.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would establish a computer equipment recycling program requiring computer manufacturers to establish free and convenient programs to collect and recycle their own brand of computers sold to consumers. Retailers would only be allowed to sell brands of computers that appear on a list of manufacturers with recovery programs. This list would be maintained by the Texas Commission on Environmental Quality (TCEQ). In addition, the TCEQ would be required to educate the public regarding the computer recycling program, maintain program information on a web site, enforce requirements for recycling computer equipment, and compile and issue an annual electronic report to the Legislature. The Department of Information Resources (DIR) and the Texas Building and Procurement Commission (TBPC) would be required to adopt rules to ensure compliance by state agencies. Penalties for violations would be deposited to the credit of the General Revenue-Dedicated Waste Management Account No. 549.

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Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 303 Building and Procurement Commission, 313 Department of Information Resources, 582 Commission on Environmental Quality

LBB Staff: JOB, WK, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 26, 2007

TO: Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2714 by Bonnen (Relating to a program for the recycling of computer equipment of consumers in this state; providing administrative penalties.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would establish a computer equipment recycling program requiring computer manufacturers to establish free and convenient programs to collect and recycle their own brand of computers sold to consumers. Retailers would only be allowed to sell brands of computers that appear on a list of manufacturers with recovery programs. This list would be maintained by the Texas Commission on Environmental Quality (TCEQ). In addition, the TCEQ would be required to educate the public regarding the computer recycling program, maintain program information on a web site, enforce requirements for recycling computer equipment, and compile and issue an annual electronic report to the Legislature. The Department of Information Resources (DIR) and the Texas Building and Procurement Commission (TBPC) would be required to adopt rules to ensure compliance by state agencies.

Although the TCEQ, the DIR, and the TBPC could incur some administrative costs in implementing the provisions of the bill, these costs are not expected to be significant.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 303 Building and Procurement Commission, 313 Department of Information Resources, 582 Commission on Environmental Quality

LBB Staff: JOB, WK, TL

