

BILL ANALYSIS

C.S.H.B. 284
By: Anchia
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to a 2008 report by the United States Government Accountability Office, many U.S. companies are exporting electronic equipment to developing countries for recycling. Additionally, it is estimated that anywhere between 20 percent and 50 percent of electronic equipment sent to recycling centers in the United States actually ends up being shipped abroad. In many of these developing countries, unsafe practices can cause health problems.

In 2007, the Legislature passed House Bill 2714 which required certain electronics manufacturers to provide a recycling program for the consumers of their products. The bill, however, did not require electronics recyclers to disclose whether they ship recycled electronic parts overseas to be dumped. C.S.H.B. 284 requires companies operating in Texas that ship recycled electronics overseas to provide Texas Commission for Environmental Quality (TCEQ) an annual report that specifies, among other things, the final destination of electronic parts or equipment shipped abroad for recycling, reuse or disposal, so that Texas consumers may be fully informed about the ultimate destination of their recycled electronic products.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2, Subchapter Y, Health and Safety Code, Chapter 361.9553(d) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 361.954, Health and Safety Code, to create an exception to the applicability of the section by adding the language "Except as provided by Section 361.9553, the" to the beginning of Section 361.954(a) and Section 361.954(b).

SECTION 2. Amends Subchapter Y, Chapter 361, Health and Safety Code, by adding Section 361.9553. REPORTS ON INTERNATIONAL SHIPMENTS OF USED ELECTRONICS. Section 361.9553(a) provides Texas residents and electronic consumers the opportunity to know the likely destination of electronic equipment or parts they are submitting for recycling or disposal.

Section 361.9553(b) requires a business entity in Texas that ships for recycling or disposal of any sort of electronic parts or equipment to a destination outside the United States but not a member country of the European Union or of the Organization for Economic Cooperation and Development to report annually to TCEQ. Section 361.9553(b) also provides this reporting requirement does not apply to equipment that is functional and being shipped for reuse. Section 361.9553(b) also requires TCEQ to provide a means for the report to be filed electronically and sets forth specific information required to be included in each annual report.

Section 361.9553(c) requires TCEQ make the report's information publicly available on the agency's Internet website in a timely manner.

Section 361.9553(d) authorizes TCEQ to adopt rules to implement Section 361.9553 and provides that the rules may establish exemptions for shipments made for humanitarian reasons or for de minimis shipments.

SECTION 3. Provides that Section 361.9553, Health and Safety Code, applies only to a shipment made on or after the effective date of this Act; that the first report required under Section 361.9553, must cover the period September 1, 2009 through August 31, 2010; and that the report must be submitted to TCEQ not later than September 30, 2010.

SECTION 4. Effective date.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. No change from the original.

SECTION 2. C.S.H.B. 284 differs from the original by amending the heading of Section 361.9553 by striking "ELECTRONIC WASTE" and substituting "USED ELECTRONICS". The substitute also differs from the original by adding a new Section 361.9553(a) and re-lettering the remaining sections accordingly. The new language of Section 361.9553(a) provides that the section is intended to give Texas consumers of electronic equipment and other Texas residents who may give to a business entity operating in this state electronic parts or equipment for recycling, reuse or disposal a means to inform themselves of the probable destination of the parts or equipment. The substitute also differs from the original by providing the reporting requirement under Section 361.9553(b) does not apply to a shipment from this state to an ultimate destination outside the United States but not located in a country that is a member of the European Union or of the Organization for Economic Cooperation and Development. The original had no such provision. The substitute also differs from the original by requiring the report under Section 361.9553(b) be submitted to TCEQ annually instead of quarterly as listed in the original bill, and by requiring TCEQ to provide a means for the report to be filed electronically. The substitute also differs from the original by providing the reporting requirement under Section 361.9553(b) does not apply to electronic equipment being shipped for reuse unless the equipment is not functional and is packaged accordingly and does not apply to electronic equipment being shipped for reuse by returning it to a manufacturer or a manufacturer's agent. The original bill had no provision for this.

SECTION 3. C.S.H.B. 284 differs from the original by changing the period to be covered by the report required to be filed with TCEQ to September 1, 2009 through August 31, 2010. The substitute also differs from the original by changing the date by which the report must be filed with TCEQ to September 30, 2010.

SECTION 4. No change from the original.