

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

D

SENATE DRS55346-LD-62 (02/14)

Short Title: Recovery of Certain I.T. Equipment. (Public)

Sponsors: Senator Hagan.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COMPREHENSIVE AND CONVENIENT
INFORMATION TECHNOLOGY COMPUTING, DISPLAY, AND PRINTING
DEVICE RECOVERY PROGRAM BASED ON INDIVIDUAL
MANUFACTURER RESPONSIBILITY AND THE SHARED RESPONSIBILITY
OF CONSUMERS, RETAILERS, AND THE DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended
by adding a new Part to read:

"Part 2E. Recovery of Certain Information Technology Equipment.

"§ 130A-309.90. Short title.

This Part may be cited as the "Manufacturer Responsibility and Consumer
Convenience Information Technology Equipment Collection and Recovery Act".

"§ 130A-309.91. Findings; purpose.

(a) The General Assembly makes the following findings:

(1) Information technology computing, display, and printing devices are
critical elements to the strength and growth of this State's economic
prosperity and our quality of life.

(2) Many of these products can be refurbished and reused, and many such
obsolete products contain valuable components that can be recycled.

(3) Developing and implementing an appropriate State program for
information technology computing, display, and printing device
recovery is important to our State's resource conservation, worker
health and safety, and economic prosperity goals.

(b) The purpose of this Part is to establish a comprehensive and convenient
information technology computing, display, and printing device recovery program

1 based on individual manufacturer responsibility and the shared responsibility of
2 consumers, retailers, and government. The purposes of this recovery system are to
3 ensure that end-of-life information technology computing, display, and printing devices
4 are responsibly retired, to promote resource conservation through the development of an
5 effective and efficient program for collecting and recycling such products, and to
6 encourage manufacturers to offer such service to consumers at no charge and
7 convenient to consumers.

8 **"§ 130A-309.92. Definitions.**

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

- 10 (1) Collect or collection. – To physically pick up a covered device at a
11 household or to facilitate the drop-off of a covered device at a
12 collection site identified in the manufacturer's plan, and to transport
13 the covered device from the collection site to a recovery facility.
- 14 (2) Consumer. – Any occupant of a single detached dwelling unit or any
15 occupant of a single unit of a multiple dwelling unit or a household
16 when the occupant uses a covered device primarily for personal or
17 home business use.
- 18 (3) Covered device. – Any electronic computing, display, or printing
19 device, including a desktop or notebook computer, computer monitor,
20 portable computer, printer, and inkjet printer. Covered device does not
21 include a television, including a cathode ray tube or flatpanel based
22 television, a part of a motor vehicle, a personal digital assistant (PDA),
23 or a telephone.
- 24 (4) Manufacturer. – Any person for which one or more of the following
25 apply:
- 26 a. Manufactures covered devices under its own brand for sale.
27 b. Manufactures covered devices for sale in this State without
28 affixing a brand.
29 c. Resells in this State covered devices produced by other
30 suppliers under its own brand or label.
31 d. Imports or exports covered devices into the United States;
32 however, if a company from whom an importer purchases the
33 merchandise has a presence in the United States or has assets in
34 the United States, that company is a manufacturer.
35 e. Manufactures covered devices, supplies them to any person
36 within a distribution network that includes wholesalers or
37 retailers in this State, and benefits from the sale of those
38 covered devices through that distribution network.
- 39 (5) Manufacturer's brand. – A manufacturer's name, brand name, or brand
40 logo, and any manufacturer's name, brand name, and brand logo for
41 which the manufacturer has legal responsibility, including any name,
42 brand name, and brand logo of any company that the manufacturer has
43 acquired.

- 1 (6) Person. – Any individual, business entity, partnership, limited liability
2 company, corporation, nonprofit corporation, association,
3 governmental entity, public entity, public benefit corporation, or public
4 authority.
- 5 (7) Recover. – To reuse, recycle, or dispose.
- 6 (8) Recoverer. – A person or entity that reuses, recycles, or disposes.
- 7 (9) Retail sales. – Sales of any product through a sales outlet, via the
8 Internet, by mail order, or by any other means, whether or not the
9 seller has a physical presence in this State. Sales include sales of new,
10 used, refurbished, and other products.
- 11 (10) Retailer. – A person who owns or operates a business that sells
12 covered devices to a consumer, including sales through a sales outlet,
13 the Internet, or a catalog, whether or not the seller has a physical
14 presence in this State.
- 15 (11) Sell or sale. – Any transfer for consideration of title including, but not
16 limited to, any transaction conducted through a sales outlet, the
17 Internet or any other similar electronic means, or a catalog. Sell or sale
18 does not include a lease.
- 19 (12) Television. – Any telecommunication system device that can broadcast
20 and receive moving pictures and sound over a distance, and includes a
21 TV tuner. Television includes a display device that is peripheral to a
22 computer but contains a TV tuner.

23 **"§ 130A-309.93. Scope.**

24 The provisions of this Part apply to covered devices purchased and used by
25 consumers in this State.

26 **"§ 130A-309.94. Responsibilities of manufacturers.**

27 (a) Sales in this State. – No manufacturer shall sell or offer for sale any covered
28 device in this State unless the manufacturer has labeled the covered device in
29 accordance with subsection (b) of this section and has adopted and is implementing a
30 recovery program in accordance with subsection (c) of this section.

31 (b) Label. – A manufacturer of a covered device shall label the device with the
32 manufacturer's brand, and this label shall be permanently affixed and readily visible.

33 (c) Recovery Program. – The manufacturer shall adopt and implement a recovery
34 program that provides for the manufacturer to offer to collect from a consumer and
35 recover each covered device that is labeled with the manufacturer's brand at no charge
36 to the consumer. The manufacturer's recovery plan under this subsection may use
37 existing collection and consolidation infrastructure for handling covered devices and
38 may include electronic recyclers and repair shops, recyclers of other commodities, reuse
39 organizations, nonprofit corporations, retailers, recyclers, or other operations approved
40 for this purpose by the Department. The recovery plan shall offer covered device
41 collection services in each county in the State that are reasonably convenient and
42 available to consumers. A collection service is reasonably convenient for the consumer
43 if the collection service is as convenient for the consumer to use as it is for the

1 consumer to purchase a covered device. Each of the following methods of providing
2 device collection services is reasonably convenient to consumers:

3 (1) A mail-back system, offered by the manufacturer or its designee,
4 whereby the consumer can return an end-of-life covered device
5 through the mail, including, but not limited to, a system in which the
6 consumer can go online, print a prepaid shipping label, package the
7 product, and schedule an at-home pickup for shipment back to the
8 manufacturer.

9 (2) A physical collection site, whereby the manufacturer or its designee
10 provides one physical collection site at which consumers may return
11 end-of-life covered devices, that remains open and staffed and that is
12 sited in a location that is geographically central to the people served as
13 follows:

14 a. One collection site for every 250,000 people in the State; or

15 b. In each county in the State with a population of 250,000 people
16 or more, one additional collection site in each such county for
17 every 250,000 people in that county above 250,000 people.

18 (3) An annual collection event, whereby the manufacturer or its designee
19 holds one collection event each calendar year at which consumers may
20 return end-of-life covered devices and that is sited in a location that is
21 geographically central to the people served as follows:

22 a. One annual collection event for every 50,000 people in the
23 State; or

24 b. In each county in the State with a population of 50,000 people
25 or more, one additional collection event in each such county for
26 every 50,000 people in that county above 50,000 people.

27 (d) Education. – Each manufacturer shall, as part of its recovery program under
28 subsection (c) of this section, inform consumers in this State about where and how to
29 return and recover covered devices. Each manufacturer shall include collection and
30 recovery information on its Web site, shall provide such information to the Department,
31 and may also include such information in the covered device's packaging or
32 accompanying the sale of the covered device.

33 (e) Annual Report. – No later than January 30 of each year, each manufacturer
34 shall annually report to the Department the number, type, and weight of covered devices
35 collected and recovered during the previous calendar year by each category of covered
36 devices and by brand. The report also shall include documentation verifying whether or
37 not the collection and recovery of such material complies with the provisions of
38 G.S. 130A-309.98.

39 (f) Data Security. – A manufacturer is not liable for any damage suffered for data
40 or other information that a consumer leaves on a covered device that is collected or
41 recovered.

42 **"§ 130A-309.95. Responsibilities and liability of retailers.**

43 (a) Conditions for Sales. – No retailer shall sell or offer for sale a covered device
44 in this State unless the covered device is labeled in accordance with

1 G.S. 130A-309.94(b) and such device's manufacturer is included on the Department's
2 list of manufacturers that have adopted and implemented a recovery program under this
3 Part.

4 (b) Data Security. – A retailer is not liable for any damage suffered for data or
5 other information that a consumer leaves on a covered device that is collected or
6 recovered.

7 **"§ 130A-309.96. Responsibilities of Department.**

8 (a) Education. – The Department shall develop a program for the education of
9 consumers about the collection and recovery of covered devices under this Part.

10 (b) Web site. – The Department shall host, or designate another person to host, a
11 Web site for consumers about the collection and recovery of covered devices that shall
12 provide information about and links to manufacturers' collection and recovery programs'
13 information, including their recovery programs, and information about and links to
14 information for noncompliant and other covered devices, including information about
15 collection events, collection sites, and community recycling programs. Inclusion on the
16 Department's Internet Web site is not a determination by the Department that the
17 manufacturer's recovery program or its recovery activities are in compliance with this
18 Part or other laws.

19 (c) Enforcement. – The Department may conduct audits and inspections to
20 determine compliance under this Part. The Department and the Attorney General, as
21 appropriate, shall enforce the provisions of this Part and take enforcement action against
22 any manufacturer, retailer, or recoverer for failure to comply with any provisions of this
23 Part, including assessing appropriate injunctive relief and administrative, civil, and
24 criminal penalties under Article 1 of this Chapter.

25 (d) Financial and Proprietary Information. – Financial or proprietary information
26 submitted to the Department under this Part is exempt from public disclosure as
27 provided under State law

28 (e) Annual Report. – No later than March 1 of each year, the Department shall
29 compile the information from the reports of manufacturers under G.S. 130A-309.94 and
30 any other information it may obtain from an audit or otherwise and issue a consolidated
31 report to the General Assembly and the Environmental Review Commission.

32 (f) Rules. – The Department may adopt any rules that are necessary to
33 implement the provision of this Part.

34 **"§ 130A-309.97. Responsibilities of consumers.**

35 (a) Data Security. – Each consumer is responsible for removing or deleting any
36 data or other information on a covered device prior to its collection for recovery under
37 this Part.

38 (b) Education.. – Consumers are encouraged to learn about proper recovery of
39 their end-of-life covered devices by visiting the Department's and the manufacturers'
40 Web sites.

41 **"§ 130A-309.98. Application of other laws; recovery standards, certification of**
42 **recoverers.**

1 (a) Compliance. – All covered devices collected pursuant to this Part shall be
2 recovered in a manner that is in accordance with all applicable federal, State, and local
3 laws and requirements.

4 (b) Recovery Standards. – The Department shall adopt by reference the Institute
5 of Scrap Recycling Industries, Inc.'s, Electronics Recycling Operating Practices, as
6 amended, as the Department's standards for a recovery that is done in an
7 environmentally sound manner and that is protective of worker health and safety.

8 (c) Recoverer Certification. – Recovery of covered devices under this Part may
9 be undertaken only by recoverers that are certified under the Institute of Scrap
10 Recycling Industries, Inc.'s, Recycling Industry Operating Standard, as amended."

11 **SECTION 2.** G.S. 130A-309.14 is amended by adding a new subsection to
12 read:

13 "(a2) The Department of Administration shall review and revise its bid procedures
14 and specifications set forth in Article 3 of Chapter 143 of the General Statutes to require
15 that any person who submits a bid for a contract with a State agency for the purchase or
16 lease of covered devices, as defined in G.S. 130A-309.92, must be in compliance with
17 Part 2E of this Article and to require that, for each State agency that purchases or leases
18 covered devices, the State agency shall require each prospective bidder to certify
19 compliance with this Part, and failure to provide such certification shall render the
20 prospective bidder ineligible to bid on the procurement of covered devices. Further, in
21 considering bids for State contracts for covered devices, in addition to any other
22 preferences provided under Article 3 of Chapter 143 of the General Statutes, the State
23 shall give special preference to manufacturers that have programs to recover other
24 manufacturers' covered devices under Part 2E of this Article, including, but not limited
25 to, collection events, recycling grants, and manufacturer initiatives to take back any
26 covered device with the purchase of a new covered device. The Department of
27 Administration may adopt rules to implement this section."

28 **SECTION 3.** Upon a federal law or any combination of federal laws
29 becoming effective that establishes a national program for the collection and recovery of
30 covered devices as "recovery" and "covered device" are defined in G.S. 130A-309.92,
31 as enacted by Section 1 of this act, that substantially meets the intent of this act, this act
32 is repealed.

33 **SECTION 4.** This act becomes effective January 1, 2008, and applies to
34 covered devices as defined in G.S. 130A-309.92, as enacted by Section 1 of this act, that
35 are sold or offered for sale on or after that date.