
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2790 Session of
2008

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SEPTEMBER 23, 2008

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
SEPTEMBER 23, 2008

AN ACT

1 Establishing a program for the recycling of computer equipment
2 of consumers in this Commonwealth; providing for the powers
3 and duties of the Department of Environmental Protection; and
4 prescribing administrative penalties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Manufacturer
9 Responsibility and Consumer Convenience Computer Equipment
10 Collection and Recovery Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Brand." The name, symbol, logo, trademark or other
16 information that identifies a product rather than the components

1 of the product.

2 "Computer equipment." A desktop or notebook computer,
3 including a computer monitor or other display device that does
4 not contain a tuner.

5 "Department." The Department of Environmental Protection of
6 the Commonwealth.

7 "Manufacturer." A person:

8 (1) who manufactures or manufactured computer equipment
9 under a brand that:

10 (i) the person owns or owned; or

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

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

17 (i) the person owns or owned; or

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

22 (3) who manufactures or manufactured computer equipment
23 without affixing a brand;

24 (4) who manufactures or manufactured computer equipment
25 to which the person affixes or affixed a brand that:

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

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

28 or

29 (5) for whose account computer equipment manufactured
30 outside the United States is or was imported into the United

1 States if, at the time of importation, the computer equipment
2 was not included for collection under the recovery plan of
3 another person.

4 "Television." A telecommunication system device that can
5 broadcast or receive moving pictures and sound over a distance
6 and includes a television tuner or a display device peripheral
7 to a computer that contains a television tuner.

8 Section 3. Legislative findings and purpose.

9 The General Assembly finds and declares as follows:

10 (1) Computers and related display devices are critical
11 elements to the strength and growth of this Commonwealth's
12 economic prosperity and quality of life.

13 (2) Many computers and related display devices can be
14 refurbished and reused and many contain valuable components
15 that can be recycled.

16 (3) The Commonwealth needs to establish a comprehensive,
17 convenient and environmentally sound program for the
18 collection, recycling and reuse of computer equipment that
19 has reached the end of its useful life.

20 (4) The program should be based on individual
21 manufacturer responsibility and shared responsibility among
22 consumers, retailers and the government of the Commonwealth.

23 Section 4. Applicability.

24 (a) General rule.--The collection, recycling and reuse
25 provisions of this act shall apply to computer equipment used
26 and returned to a manufacturer by a consumer in this
27 Commonwealth.

28 (b) Exceptions.--This act does not apply to:

29 (1) A television, any part of a motor vehicle, a
30 personal digital assistant or a telephone.

1 (2) A consumer's lease of computer equipment or a
2 consumer's use of computer equipment under a lease agreement.

3 (3) The sale or lease of computer equipment to a
4 business.

5 Section 5. Manufacturer responsibilities.

6 (a) General rule.--Before a manufacturer may offer computer
7 equipment for sale in this Commonwealth, the manufacturer must:

8 (1) Adopt and implement a recovery plan.

9 (2) Affix a permanent, readily visible label to the
10 computer equipment which specifies the manufacturer's brand.

11 (b) Contents of recovery plan.--The recovery plan shall
12 include, at no charge to the consumer, provisions for:

13 (1) The manufacturer's collection from a consumer of any
14 computer equipment that has reached the end of its useful
15 life and is labeled with the manufacturer's brand.

16 (2) Recycling or reuse of computer equipment collected
17 under paragraph (1).

18 (c) Collection criteria.--The collection of computer
19 equipment provided under the recovery plan shall be:

20 (1) Reasonably convenient and available to consumers in
21 this Commonwealth.

22 (2) Designed to meet the collection needs of consumers
23 in this Commonwealth.

24 (d) Collection methods.--Collection methods that meet the
25 convenience requirements of this section include:

26 (1) A system by which the manufacturer or the
27 manufacturer's designee offers the consumer a system for
28 returning computer equipment by mail.

29 (2) A system using a physical collection site that the
30 manufacturer or the manufacturer's designee keeps open and

1 staffed and to which the consumer may return computer
2 equipment.

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

6 (e) Collection services.--Collection services under this
7 section may use existing collection and consolidation
8 infrastructure for handling computer equipment and may include
9 electronic recyclers and repair shops, recyclers of other
10 commodities, reuse organizations, not-for-profit corporations,
11 retailers, recyclers and other suitable operations.

12 (f) Information to consumers.--The recovery plan shall
13 include information for the consumer on how and where to return
14 the manufacturer's computer equipment. The manufacturer:

15 (1) Shall include collection, recycling and reuse
16 information on the manufacturer's publicly accessible
17 Internet website.

18 (2) Shall provide collection, recycling and reuse
19 information to the department.

20 (3) May include collection, recycling and reuse
21 information in the packaging for or in other materials that
22 accompany the manufacturer's computer equipment when the
23 equipment is sold.

24 (g) Effect of published information.--Information about
25 collection, recycling and reuse on a manufacturer's publicly
26 accessible Internet website does not constitute a determination
27 by the department that the manufacturer's recovery plan or
28 actual practices are in compliance with this act or any other
29 law.

30 (h) Manufacturer reporting to department.--A manufacturer

1 shall submit a report to the department no later than January 31
2 of each year that includes:

3 (1) The weight of computer equipment collected, recycled
4 and reused during the preceding calendar year.

5 (2) Documentation verifying the collection, recycling
6 and reuse of the computer equipment.

7 Section 6. Environmental management.

8 (a) Multiple manufacturers for single brand.--

9 (1) If more than one person is a manufacturer of a
10 certain brand of computer equipment, any of those persons may
11 assume responsibility for and satisfy the obligations of a
12 manufacturer under this act for that brand.

13 (2) If none of those persons assumes responsibility or
14 satisfies the obligations of a manufacturer for the computer
15 equipment of that brand, the department may consider any of
16 those persons to be the responsible manufacturer for purposes
17 of this act.

18 (b) Date of manufacture irrelevant.--The obligations under
19 this act of a manufacturer who manufactures or manufactured
20 computer equipment, or sells or sold computer equipment
21 manufactured by others under a brand that was previously used by
22 a different person in the manufacture of the computer equipment,
23 extends to all computer equipment bearing that brand regardless
24 of its date of manufacture.

25 Section 7. Retailer responsibility.

26 A person who is a retailer of computer equipment may not sell
27 or offer to sell computer equipment in this Commonwealth, unless
28 the equipment is labeled with the manufacturer's label and the
29 manufacturer is included on the department's list of
30 manufacturers that have recovery plans.

1 Section 8. Liability.

2 (a) General rule.--A manufacturer or retailer of computer
3 equipment shall not be liable for information in any form that a
4 consumer leaves on computer equipment that is collected,
5 recycled or reused under this act.

6 (b) Construction.--Subsection (a) shall not be construed to
7 exempt a person from liability under any other law.

8 Section 9. Consumer education.

9 (a) Duty of department.--The department shall educate
10 consumers regarding the collection, recycling and reuse of
11 computer equipment.

12 (b) Publication of information.--The department shall host
13 an Internet website providing consumers with information about
14 the recycling and reuse of computer equipment, including
15 information about and links to information on:

16 (1) Manufacturers' collection, recycling and reuse
17 programs, including manufacturers' recovery plans.

18 (2) Computer equipment collection events, collection
19 sites and community computer equipment recycling and reuse
20 programs.

21 (c) Effect of published information.--Inclusion on the
22 department's Internet website under subsection (b) does not
23 constitute a determination by the department that the
24 manufacturer's recovery plan or practices are in compliance with
25 this act or any other law.

26 Section 10. Enforcement.

27 (a) General rule.--The department may conduct audits and
28 inspections to determine compliance with this act.

29 (b) Enforcement action.--The department and the Attorney
30 General, as appropriate, shall enforce this act and take

1 enforcement action against any manufacturer, retailer or person
2 who recycles or reuses computer equipment in violation of this
3 act.

4 (c) Administrative penalties.--

5 (1) A manufacturer that does not label the new computer
6 equipment or adopt and implement a recovery plan as required
7 by the department may be assessed an administrative penalty,
8 in addition to any other penalty under this act, of not more
9 than \$10,000 for the first violation and not more than
10 \$25,000 for each subsequent violation.

11 (2) A person who violates this act may be assessed an
12 administrative penalty, in addition to any other penalty
13 under this act, of not more than \$1,000 for the first
14 violation and not more than \$2,000 for each subsequent
15 violation.

16 (d) Deposit of penalties.--A penalty assessed under this
17 section shall be paid to the department and deposited into the
18 Recycling Fund.

19 Section 11. Financial and proprietary information.

20 Financial or proprietary information submitted to the
21 department under this act is exempt from public disclosure under
22 the act of June 21, 1957 (P.L.390, No.212), referred to as the
23 Right-to-Know Law.

24 Section 12. Annual report to General Assembly.

25 The department shall compile information from manufacturers
26 and issue an electronic report to the committee in the Senate
27 and the House of Representatives having primary jurisdiction
28 over environmental matters no later than March 1 of each year.

29 Section 13. Fees not authorized.

30 This act does not authorize the department to impose a fee,

1 including a recycling fee or registration fee, on a consumer,
2 manufacturer, retailer or person who recycles or reuses computer
3 equipment.

4 Section 14. Consumer responsibility.

5 A consumer is responsible for any information in any form
6 left on the consumer's computer equipment that is collected,
7 recycled or reused.

8 Section 15. Environmental management.

9 (a) General rule.--All computer equipment collected under
10 this act shall be recycled or reused in a manner that complies
11 with Federal, State and local law.

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

19 Section 16. State procurement requirements.

20 (a) General rule.--A person who submits a bid for a contract
21 with a State agency for the purchase or lease of computer
22 equipment must be in compliance with this act.

23 (b) Prospective bidder certification.--A State agency that
24 purchases or leases computer equipment shall require each
25 prospective bidder to certify the bidder's compliance with this
26 act. Failure to provide this certification shall render the
27 prospective bidder ineligible to participate in the bidding.

28 (c) Preferences.--In considering bids for a contract for
29 computer equipment, in addition to any other preference provided
30 under other laws of this Commonwealth, a State agency shall give

1 special preference to a manufacturer that has a program to
2 recycle or reuse the computer equipment of other manufacturers,
3 including collection events, recycling grants and manufacturer
4 initiatives to accept computer equipment labeled with another
5 manufacturer's brand.

6 (d) Duty of Department of General Services.--The Department
7 of General Services shall adopt rules to implement this section.

8 (e) Definition.--For purposes of this section, "State
9 agency" shall have the same meaning as "Commonwealth agency"
10 under 62 Pa.C.S. § 103 (relating to definitions).

11 Section 17. Federal preemption.

12 If Federal law establishes a national program for the
13 collection and recycling of computer equipment and the
14 department determines that the Federal law substantially meets
15 the purposes of this act, the department may publish a notice in
16 the Pennsylvania Bulletin stating that the Federal law is
17 preemptive of this act.

18 Section 18. Expiration.

19 This act shall expire on the date the department publishes
20 the notice under section 17.

21 Section 19. Regulations.

22 The department shall adopt any rules or regulations necessary
23 to implement this act.

24 Section 20. Effective date.

25 This act shall take effect in 60 days.