
A BILL FOR AN ACT

RELATING TO RECYCLING.

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

1 SECTION 1. Act 13, Special Session Laws of Hawaii 2008,
2 addresses the collection, transportation, and recycling of
3 computers, computer printers, computer monitors, and portable
4 computers that are used and discarded in the State.

5 The legislature finds that a similar comprehensive and
6 convenient television recycling and reuse program, based on
7 shared responsibility among all stakeholders, including
8 manufacturers, consumers, retailers, and government, would
9 ensure that end-of-life televisions are responsibly recycled or
10 disposed to promote resource conservation.

11 The purpose of this Act is to develop an effective and
12 efficient system for recycling televisions and to require
13 manufacturers to offer this service to consumers with
14 convenience.

15 SECTION 2. The Hawaii Revised Statutes is amended by
16 adding a new chapter to be appropriately designated and to read
17 as follows:

18 **"CHAPTER**



TELEVISION RECOVERY SYSTEM

§ -1 **Definitions.** As used in this chapter:

"Brand" means symbols, words, or marks that identify a covered television, rather than any of its components.

"Covered entity" means any household, government entity, business, or nonprofit organization exempt from taxation under section 501(c)(3) of the United States Internal Revenue Code, regardless of size or place of operation within the State.

"Covered television" means any electronic device that is capable of receiving broadcast, cable, or satellite signals and displaying television or video programming, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger with display technology based on cathode ray tube, plasma, liquid crystal, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a household. The term shall not include:

(1) A computer, computer printer, computer monitor, or portable computer;

(2) A television that is a part of a motor vehicle or any component part of a motor vehicle assembled by



1 or for a vehicle manufacturer or franchised
2 dealer, including replacement parts for use in a
3 motor vehicle;

4 (3) A television that is functionally or physically a
5 part of a larger piece of equipment designed and
6 intended for use in an industrial, governmental,
7 commercial, or medical setting, including but not
8 limited to:

9 (A) Diagnostic, monitoring, or control equipment;

10 (B) Equipment used for security, sensing,
11 monitoring, anti-terrorism, or emergency
12 services purposes; or

13 (C) Equipment designed and intended primarily for
14 use by professional users;

15 (4) A telephone of any type, including a mobile
16 telephone; or

17 (5) A global positioning system.

18 "Department" means the department of health.

19 "Household" means any occupant of a single detached
20 dwelling unit or of a single unit of a multiple dwelling unit
21 who has used a covered television at a dwelling unit primarily
22 for personal or home business use.



1 "Market share" means a calculation of a television
2 manufacturer's prior year's sales of televisions divided by all
3 manufacturers' prior year's sales for all televisions, as
4 determined by the department. Market share may be expressed as
5 a percentage, a fraction, or a decimal fraction.

6 "Person" means any individual, business, partnership,
7 limited liability company, corporation, not-for-profit
8 corporation, association, governmental entity, public benefit
9 corporation, or public authority.

10 "Program year" means a full calendar year beginning on or
11 after January 1, 2010.

12 "Recover" means to reuse or recycle.

13 "Recoverer" means a person or entity that reuses or
14 recycles.

15 "Recycle":

16 (1) Means processing, including disassembling,
17 dismantling, or shredding, covered televisions or
18 their components to recover a useable product; but

19 (2) Does not include any process defined as incineration
20 under applicable laws or rules.



1 "Retailer" means any person who offers covered televisions
2 for sale, other than resale by the purchaser, through any means,
3 including sales outlets, catalogs, or the Internet.

4 "Sell" or "sale" means any transfer for consideration of
5 title, including transactions conducted through sales outlets,
6 catalogs, or the Internet but excluding leasing.

7 "Television manufacturer" means a person who:

- 8 (1) Manufactures for sale in the State a covered
9 television under a brand that it licenses or owns;
- 10 (2) Manufactures for sale in the State covered televisions
11 without affixing a brand;
- 12 (3) Resells into the State a covered television
13 manufactured by others under a brand that the seller
14 owns or is licensed to use;
- 15 (4) Imports into the United States or exports from the
16 United States a covered television for sale in the
17 State;
- 18 (5) Sells at retail a covered television acquired from an
19 importer that is the manufacturer as described in
20 paragraph (4), and elects to register as the
21 manufacturer for those products;



(6) Manufactures covered televisions and supplies them to any person or persons within a distribution network that includes wholesalers or retailers in this State; or

(7) Assumes the responsibilities and obligations of a television manufacturer under this chapter.

In the event the television manufacturer is one who manufactures, sells, or resells under a brand for which it has obtained the license, the licensor or brand owner of the brand shall not be included in the definition of television manufacturer under paragraph (1) or (3).

§ -2 **Applicability.** The recycling provisions of this chapter shall apply only to covered televisions used and discarded in this State by a covered entity.

§ -3 **Television manufacturers.** (a) No television manufacturer shall sell or offer for sale any new covered television in this State unless:

(1) The covered television is labeled with a brand, whether licensed or owned, and the label is shall be permanently affixed; and



1 (2) The brand is included in a registration that is filed
2 with the department and that is effective pursuant to
3 subsection (b).

4 (b) By January 1, 2010, before selling or offering for
5 sale any covered television in the State, each television
6 manufacturer shall register with the department and pay to the
7 department a registration fee of \$2,500. Thereafter, if a
8 television manufacturer has not previously registered, the
9 television manufacturer shall register with the department prior
10 to any offer for sale for delivery in this State of the
11 television manufacturer's new covered televisions.

12 (c) Each manufacturer who is registered shall submit an
13 annual renewal of its registration and payment of a registration
14 fee of \$2,500 to the department by January 1 of each program
15 year.

16 (d) The registration and each renewal shall include a list
17 of all of the television manufacturer's brands of covered
18 televisions and shall be effective on the second day of the
19 succeeding month after receipt by the department of the
20 registration or renewal.

21 (e) A television manufacturer shall provide the department
22 with contact information for the television manufacturer's



1 designated agent or employee whom the department may contact for
2 information on the television manufacturer's compliance with the
3 requirements of this section.

4 § -4 **Manufacturer responsibility.** (a) Beginning
5 January 1, 2011, a television manufacturer shall recycle or
6 arrange for the recycling of any covered television sold in the
7 State.

8 (b) By June 1, 2010, and annually thereafter, each
9 manufacturer shall submit a plan to the department to establish,
10 conduct, and manage a program for the recycling of covered
11 televisions sold in the State.

12 (c) The department shall review each manufacturer's plan
13 and, within sixty days of receipt of the plan, determine whether
14 the plan complies with this chapter. If the plan is approved,
15 the department shall notify the manufacturer or group of
16 manufacturers. If the plan is rejected, the department shall
17 notify the manufacturer or group of manufacturers and provide
18 the reasons for the plan's rejection. Within thirty days after
19 receipt of the department's rejection, the manufacturer or group
20 of manufacturers may revise and resubmit the plan to the
21 department for approval.



1 (d) The obligation to recycle covered televisions shall be
2 allocated to each television manufacturer based upon the
3 television manufacturer's market share multiplied by the total
4 pounds of covered televisions recycled by all television
5 manufacturers during the previous program year.

6 (d) A television manufacturer may fulfill the requirements
7 of this section either individually or in participation with
8 other television manufacturers.

9 (e) No later than January 31, 2012, and each year
10 thereafter, each television manufacturer shall report to the
11 department, the total weight of covered televisions that the
12 manufacturer recovered in the State and recycled during the
13 previous year.

14 § -5 **Retailer responsibility.** (a) Beginning January 1,
15 2011, a retailer shall not sell or offer to sell any covered
16 television in this State unless a visible, permanent label
17 clearly identifying the manufacturer of that device is affixed
18 to the equipment and the television manufacturer has registered
19 with the State.

20 (b) Beginning January 1, 2011, retailers shall make
21 available to their customers information on collection services
22 for discarded televisions in the State and shall include the



1 department's website address and toll-free telephone number.
2 Remote retailers may include this information in a visible
3 location on their website to fulfill this requirement.

4 (c) Retailers shall not be liable in any way for
5 electronic data or other information that a consumer may have
6 stored on a covered television that is recovered or recycled.

7 § -6 **Manufacturer's recovery.** (a) The department shall
8 use state-specific television sales data or national television
9 sales data available from commercially available analytical
10 sources to determine each television manufacturer's recycling
11 responsibilities for covered televisions based upon the
12 manufacturer's market share. If the department uses national
13 sales data, the department shall extrapolate data for the State
14 from national data on the basis of the State's share of national
15 population. The department shall seek to establish the most
16 accurate determination of each manufacturer's market share and
17 may rely on supplemental sources of information to achieve this
18 goal.

19 (b) No later than March 15, 2012, and annually thereafter,
20 the department shall notify each manufacturer of its recycling
21 obligation. Each manufacturer's obligation shall be based on
22 that manufacturer's market share from the previous year



1 multiplied by the total pounds of covered televisions recovered
2 by all television manufacturers during the previous program
3 year.

4 (c) The department shall develop a consumer education
5 program about the covered television recycling program.

6 (d) Beginning January 1, 2011, the department shall
7 display on its website a toll-free number and current
8 information on covered television recycling locations.

9 § -7 **Enforcement.** (a) The department may conduct
10 audits and inspections to determine compliance under this
11 chapter. The department and the attorney general, as
12 appropriate, shall be empowered to enforce this chapter and take
13 necessary action against any covered television manufacturer or
14 retailer for failure to comply with this chapter or any rules
15 adopted thereunder.

16 (b) Any retailer who sells or offers for sale an unlabeled
17 covered television in violation of section -5 or any covered
18 television manufacturer that fails to comply with any provision
19 of section -4 may be assessed a penalty of up to \$10,000 for
20 the first violation and up to \$25,000 for the second and each
21 subsequent violation, in addition to any additional penalties
22 required or imposed pursuant to this chapter.



1 (c) Except as provided in subsection (b), any person who
2 violates any requirement of this chapter may be assessed a
3 penalty of up to \$1,000 for the first violation and up to \$2,000
4 for the second and each subsequent violation, in addition to any
5 additional penalties required or imposed pursuant to this
6 chapter.

7 (d) The department shall determine additional penalties
8 based on adverse impact to the environment, unfair competitive
9 advantage, and other considerations that department deems
10 appropriate.

11 (e) Any violation of the sales prohibitions of this
12 chapter may be enjoined in an action brought by the attorney
13 general in the name of the State.

14 (f) If a covered television manufacturer fails to recycle
15 its market share allocation, the department shall impose a
16 penalty of 50 cents per pound for each pound not recycled.

17 § -8 **Financial information; report.** (a)

18 Notwithstanding any law to the contrary, financial or
19 proprietary information, including trade secrets, commercial
20 information, and business plans submitted to the department
21 under this chapter is confidential and exempt from public
22 disclosure to the extent permitted by chapter 92F.



1 (b) The department shall compile the information submitted
2 by covered television manufacturers and issue a report to the
3 legislature no later than April 1, 2012, and annually each year
4 thereafter.

5 § -9 **Rules.** The department may adopt rules, pursuant to
6 chapter 91, necessary to implement this chapter.

7 § -10 **Penalty funds.** (a) The department shall deposit
8 moneys received from penalties assessed pursuant to this chapter
9 into the electronic device recycling fund, established pursuant
10 to section 339D-10.

11 (b) The department shall not have the authority to assess
12 any fees, including an advanced recycling fee, registration fee,
13 or other fee, on consumers, television manufacturers, or
14 retailers for recovery of covered televisions except those noted
15 in sections -3 and -7.

16 § -11 **Environmental management.** (a) All covered
17 televisions recovered pursuant to this Act shall be recycled in
18 a manner that complies with all applicable federal, state, and
19 county laws and requirements.

20 (b) The department shall adopt by reference the Institute
21 of Scrap Recycling Industries, Inc.'s Electronics Recycling
22 Operating Practices as requirements.



1 § **-12 State procurement.** All state and county agencies
2 that purchase or lease any covered television shall require each
3 prospective offeror to certify compliance with this chapter.
4 Failure to provide certification shall disqualify the
5 prospective offeror.

6 § **-13 Federal preemption.** This Act shall be deemed
7 repealed if a federal law or a combination of federal laws takes
8 effect that establishes a national program for the recycling of
9 covered televisions that substantially meets the intent of this
10 chapter."

11 SECTION 3. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Recycling; Televisions

Description:

Establishes a television recycling and recovery program.

