

JAN 22 2021

A BILL FOR AN ACT

RELATING TO SUSTAINABLE ELECTRONICS MANAGEMENT.

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

1 SECTION 1. The legislature finds that use of electronic
2 devices has grown substantially over the past two decades, and
3 according to the United States Environmental Protection Agency,
4 Americans have generated approximately three million tons of
5 waste in consumer electronics goods per year during the last
6 decade.

7 The legislature finds that while recycling of electronic
8 devices prevents valuable materials from going into the waste
9 stream, preventing waste in the first place is preferable to any
10 waste management option. Donating used, but still functioning
11 electronic devices for reuse extends the lives of valuable
12 products and keeps them out of the waste stream for a longer
13 duration of time. Donating used electronic devices also allows
14 the recipients, such as schools, nonprofit organizations, and
15 lower-income families to obtain equipment that they otherwise
16 cannot afford.



1 technology hardware, including data storage devices, network
2 equipment, servers, and server racks.

3 "Covered entity" means a person receiving state funds and
4 state financial assistance; provided that any person who is
5 required to reuse the person's personal properties as excess or
6 surplus federal personal property under applicable federal law
7 and executive orders shall be excluded. State financial
8 assistance includes grants, purchase-of-service contracts, or
9 any other arrangement by which the State provides or otherwise
10 makes available assistance in the form of funds to the person
11 for the purpose of rendering services to the public; provided
12 that the term shall not include funds obtained based on
13 procurement contracts, state insurance or guaranty contracts,
14 licenses, tax credits, or loan guarantees to private businesses
15 of general concern that do not render services on behalf of the
16 State.

17 "Covered refurbisher" means an organization that:

- 18 (1) Is exempt from taxation under section 501(c)(3) of the
19 United States Internal Revenue Code;
- 20 (2) Is registered with the department of commerce and
21 commercial affairs to conduct business in this State;



- 1 (3) Maintains a physical place of operation in this State
- 2 to receive and distribute excess electronic devices;
- 3 (4) Has the ability to repair, upgrade, and refurbish
- 4 excess electronic devices for use and distribute them
- 5 to eligible recipients under this chapter;
- 6 (5) Is registered with the department as a covered
- 7 refurbisher under this chapter; and
- 8 (6) Satisfies other criteria to operate as a covered
- 9 refurbisher under this chapter, as determined by the
- 10 department.

11 "Covered television" has the same meaning as defined in
12 section 339D-1.

13 "Department" means the department of accounting and general
14 services.

15 "Excess electronic device" means any covered electronic
16 device or covered television that is:

- 17 (1) Owned and controlled by a covered entity;
- 18 (2) No longer necessary for the operations of the covered
- 19 entity, as determined by the covered entity; and



1 (3) Properly functioning or may be repaired, upgraded, or
2 refurbished for use by an eligible recipient, as
3 determined by the covered entity.

4 "Government entity" means any department, unit, or agency,
5 of the federal, state, or county governments.

6 "Lease" means any transfer of the right to possession and
7 use of goods for a term in return for consideration.

8 "Person" means any individual, business, partnership,
9 limited liability company, corporation, nonprofit organization,
10 association, government entity, public benefit corporation, or
11 public authority.

12 "Refurbished device" means an excess electronic device that
13 has been refurbished by a covered refurbisher for the purpose of
14 distribution to an eligible recipient.

15 "Sell" or "sale" means any transfer of title to goods in
16 return for consideration.

17 § -3 Covered entity responsibility. (a) No later than
18 January 1, 2022, and at minimum, each year thereafter, a covered
19 entity shall:

20 (1) Identify any excess electronic device; and



1 (2) Transfer, as a charitable contribution, the title to
2 and possession of the excess electronic device to a
3 covered refurbisher at no cost to the covered
4 refurbisher.

5 The covered entity shall provide its name and contact
6 information to the covered refurbisher upon the transfer of
7 title and possession under this paragraph.

8 (b) A covered entity shall, prior to the transfer of an
9 excess electronic device under this section, remove data from
10 the device according to the rules adopted by the department
11 under this chapter. To the maximum extent practicable, the
12 covered entity shall remove data using a means that does not
13 remove, disable, destroy, or otherwise render unusable the
14 device.

15 (c) A covered entity may, prior to the transfer of an
16 excess electronic device under this section, request a covered
17 refurbisher to examine a covered electronic device or covered
18 television that is not functioning properly and determine if it
19 may be repaired, updated, or refurbished for use. If the
20 covered refurbisher determines that the device or television



1 cannot be repaired, updated, or refurbished for use, the covered
2 entity shall recycle it in compliance with applicable law.

3 (d) No later than February 1, 2023, and each year
4 thereafter, a covered entity shall report to the department, for
5 each excess electronic device it transferred to a covered
6 refurbisher under this section during the previous year:

7 (1) The type of the device;

8 (2) The amount of charitable contribution the covered
9 entity claimed for the device;

10 (3) The name of the covered refurbisher who received the
11 device; and

12 (4) Any other information the department deems appropriate
13 under this chapter.

14 **§ -4 Covered refurbisher responsibility.** (a) A covered
15 refurbisher shall, upon receipt of title to and possession of an
16 excess electronic device from a covered entity under this
17 chapter:

18 (1) Repair, upgrade, and refurbish the excess electronic
19 device for use, and transfer title to and possession
20 of the refurbished device to an eligible recipient at
21 a price of \$50 for each refurbished device or the



1 actual cost incurred by the covered refurbisher to
2 refurbish the device, whichever is lower; or

3 (2) Recycle the excess electronic device in compliance
4 with applicable law if it cannot be repaired,
5 upgraded, or refurbished for use.

6 (b) A nonprofit refurbisher shall not be liable for
7 electronic data or other information remaining on an excess
8 electronic device that is contributed from a covered entity
9 under this chapter.

10 (c) A covered refurbisher shall, upon request from a
11 covered entity, examine a covered electronic device or covered
12 television and determine if it is functioning properly or may be
13 repaired, updated, or refurbished for use. If the covered
14 refurbisher determines that the device or television cannot be
15 repaired, updated, or refurbished for use, the covered entity
16 shall recycle it in compliance with applicable law.

17 (d) A covered refurbisher shall provide notice of
18 refurbished devices available for distribution to eligible
19 recipients by practicable means, such as newspapers, community
20 announcements, and the internet.



1 (e) No later than February 1, 2023, and each year
2 thereafter, a covered refurbisher shall report to the
3 department, for each excess electronic device it received under
4 this chapter during the previous year:

- 5 (1) The name and contact information of the donating
6 covered entity;
- 7 (2) The type of the device; and
- 8 (3) Any other information the department deems appropriate
9 under this chapter.

10 (f) No covered refurbisher shall sell or lease a covered
11 electronic device or covered television it receives from a
12 covered entity under this section except for sales of a
13 refurbished device to an eligible recipient under subsection
14 (a)(1).

15 **§ -5 Eligible recipients.** (a) A person is eligible to
16 receive title to and possession of a refurbished device under
17 this chapter; provided that the person is:

- 18 (1) A charitable, religious, or nonprofit organization;
- 19 (2) An individual who is:
 - 20 (A) A resident of this State; and



1 (B) Determined to be in need in accordance with rules
2 adopted by the department under this chapter; or

3 (3) A covered entity that is a government entity.

4 (b) No person who received title to and possession of a
5 refurbished device under this chapter shall sell or lease the
6 device.

7 § -6 Department responsibility. (a) Beginning
8 January 1, 2022, the department shall maintain and update a
9 website with current information on covered refurbishers
10 available in the State.

11 (b) No later than April 1, 2023, and annually each year
12 thereafter, the department shall compile the information
13 submitted by covered refurbishers of the excess electronic
14 devices that were received and distributed during the previous
15 year, and submit a report to the legislature.

16 § -7 Regulatory authority. The department shall
17 establish rules pursuant to chapter 91 to implement the purposes
18 of this chapter.

19 § -8 Enforcement; penalties. (a) The department may
20 conduct inspections to determine compliance under this chapter.



1 (b) The attorney general may file suit in the name of the
2 State to enjoin an activity related to the sale or lease of
3 excess electronic devices in violation of this chapter.

4 (c) Any person in violation of this chapter may be
5 assessed a penalty of up to \$1,000 for the first violation and
6 up to \$2,000 for the second and each subsequent violation.

7 § -9 **Administrative penalties; fees.** (a) In addition
8 to any other administrative or judicial remedy provided by this
9 chapter or by rules adopted under this chapter for a violation
10 thereof, the department may impose by order administrative
11 penalties and is further authorized to set, charge, and collect
12 administrative fines and to recover administrative fees and
13 costs, including attorney's fees and costs, or to bring legal
14 action to recover administrative fines and fees and costs,
15 including attorney's fees and costs.

16 (b) Notwithstanding subsection (a), the department shall
17 not assess any fees on the eligible recipients, covered
18 entities, or covered refurbishers for the acts of transferring
19 or receiving title to and possession of excess electronic
20 devices or refurbished devices under this chapter."



S.B. NO. 913

Report Title:

Electronic Hardware; Donation; Nonprofit Organizations; Reuse

Description:

Requires persons who receive state funds and state financial assistance to donate unnecessary but functioning electronic devices, hardware, and televisions to nonprofit organizations that will refurbish and distribute them to eligible persons in the State. Sets reporting requirements for donating entities, nonprofit refurbishers, and the department of accounting and general services. Sets penalties for violations.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

