

JAN 28 2009

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 to
10 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 television" means a television discarded by a household in the State, but does not include the following:

(1) A television that is a part of a motor vehicle or any component part of a motor vehicle assembled by or for a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

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

- (A) Diagnostic, monitoring, control equipment;
- (B) Equipment used for security, sensing, monitoring, anti-terrorism, or emergency services purposes;

or

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

(3) A telephones of any type, including a mobile telephone; or



1 (5) A global positioning system.

2 "Department" means the department of health.

3 "Household" means any occupant of a single detached
4 dwelling unit or of a single unit of a multiple dwelling unit
5 who has used a covered television at a dwelling unit primarily
6 for personal or home business use.

7 "Market share" means a calculation of a television
8 manufacturer's prior year's sales of televisions divided by all
9 manufacturers' prior year's sales for all televisions, as
10 determined by the department. Market share may be expressed as
11 a percentage, a fraction, or a decimal fraction.

12 "Person" means any individual, business, partnership,
13 limited liability company, corporation, not-for-profit
14 corporation, association, governmental entity, public benefit
15 corporation, or public authority.

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

18 "Recover" means to reuse or recycle.

19 "Recoverer" means a person or entity that reuses or
20 recycles.

21 "Recycle":



1 (1) Means processing (including disassembling,
2 dismantling, or shredding) covered televisions or
3 their components to recover a useable product;

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

6 "Retailer" means any person who offers covered televisions
7 for sale, other than resale by the purchaser, through any means,
8 including directly to a consumer, including sales outlets,
9 catalogs, or the Internet.

10 "Sell" or "sale" means any transfer for consideration of
11 title, including but not limited to transactions conducted
12 through sales outlets, catalogs, or the Internet but excluding
13 leasing.

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



1 include a computer, computer printer, computer monitor, or
2 portable computer.

3 "Television manufacturer" means a person who:

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



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

3 In the event the television manufacturer is one who
4 manufactures, sells, or resells under a brand it licenses, the
5 licensor or brand owner of the brand shall not be included in
6 the definition of television manufacturer under paragraph (1) or
7 (3).

8 § -2 **Applicability.** The recovery provisions of this
9 chapter shall apply to covered televisions used and returned by
10 consumers in this State.

11 § -3 **Television manufacturers.** (a) No television
12 manufacturer shall sell or offer for sale a covered television
13 in this State unless the television manufacturer includes the
14 television manufacturer's name and brand, whether owned or
15 licensed, on the covered television.

16 (b) Each television manufacturer:

17 (1) By January 1, 2010, before selling or offering for
18 sale covered televisions in the State, shall register
19 with the department, and, at the time of registration,
20 shall pay an initial registration fee of \$2,500 to the
21 department. Thereafter, if a television manufacturer
22 has not previously registered, the television



1 manufacturer shall register with the department prior
2 to any offer for sale for delivery in this State of
3 the television manufacturer's new covered televisions.

4 (2) Who is registered shall submit an annual renewal of
5 its registration and payment of a registration fee of
6 \$2,500 to the department by January 1 of each year.

7 (3) In its registration and renewal shall include a list
8 of all of the television manufacturer's brands of
9 covered televisions, regardless of whether it owns or
10 licenses the brands, and shall be effective on the
11 second day of the succeeding month after receipt by
12 the department of the registration or renewal.

13 (c) A television manufacturer shall provide the department
14 with contact information for the television manufacturer's
15 designated agent or employee whom the department may contact for
16 information on the television manufacturer's compliance with the
17 requirements of this section.

18 § -4 **Manufacturer responsibility.** (a) Beginning
19 January 1, 2011, a television manufacturer shall recycle or
20 arrange for the recycling of covered televisions sold in the
21 State.



1 (b) The obligation to recycle covered televisions shall be
2 allocated to each television manufacturer based on 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 (c) A television manufacturer may fulfill the requirements
7 of this section either individually or in participation with
8 other television manufacturers.

9 (d) 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 collected 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 in the State, and shall include the department's website address



1 and toll-free telephone number. Remote retailers may include
2 this information in a visible location on their website to
3 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 collected 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 recovery
11 responsibilities for covered televisions based on 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 non-binding
21 recycling obligation. Each manufacturer's obligation shall be
22 based on that manufacturer's market share from the previous year



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

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

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

8 § -7 **Enforcement.** (a) The department may conduct
9 audits and inspections to determine compliance under this
10 chapter. The department and the attorney general, as
11 appropriate, shall enforce this chapter and take enforcement
12 action against any covered television manufacturer, retailer, or
13 recoverer for failure to comply with any provisions of this
14 chapter.

15 (b) Any retailer who fails to label its covered
16 televisions as required by section -5 or any covered
17 television manufacturer that fails to adopt and implement a
18 recovery plan as required by section -4 may be assessed a
19 penalty of up to \$10,000 for the first violation and up to
20 \$25,000 for the second and each subsequent violation, in
21 addition to any additional penalties required or imposed
22 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 penalties based on
8 adverse impact to the environment, unfair competitive advantage,
9 and other considerations that department deems appropriate.

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

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

16 § -8 Financial information; report. (a)
17 Notwithstanding any law to the contrary, financial or
18 proprietary information, including trade secrets, commercial
19 information, and business plans submitted to the department
20 under this chapter is confidential and exempt from public
21 disclosure.



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 use any
8 money received from penalties assessed pursuant to this chapter
9 to offset costs of administering the program and to provide
10 grants to local governments for collecting covered televisions.

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, retailers,
14 or recoverers for recovery of covered televisions except those
15 noted in sections -3 and -7.

16 § -11 Environmental management. (a) All covered
17 televisions collected pursuant to this Act shall be recovered in
18 a manner that complies with all applicable federal, state, and
19 local 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.** (a) Any person who submits a
2 bid or proposal for a contract with a state agency for the
3 purchase or lease of covered televisions, pursuant to chapter
4 103D, shall demonstrate to the purchasing agency that the brand
5 of the covered televisions offered are in compliance with this
6 chapter.

7 (b) A state agency that purchases or leases any covered
8 television shall require each prospective bidder to certify
9 compliance with this chapter. Failure to provide certification
10 shall disqualify the prospective bidder.

11 § -13 **Federal preemption.** This Act shall be deemed
12 repealed if a federal law or a combination of federal laws takes
13 effect that establishes a national program for the recycling of
14 covered televisions that substantially meets the intent of this
15 chapter."

16 SECTION 3. If any provision of this Act, or the
17 application thereof to any person or circumstance is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act, which can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.

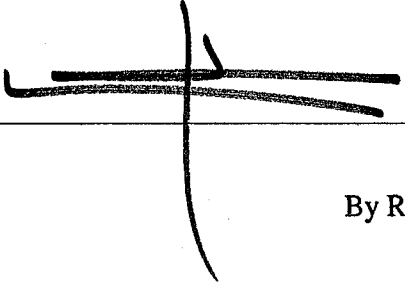


S.B. NO. 1636

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

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INTRODUCED BY:



By Request



Report Title:

Recycling; Televisions

Description:

Establishes a television recycling and recovery program.

