

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

SENATE BILL 1492

RATIFIED BILL

**SECTION 16.1.(a)** Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 2E. Discarded Computer Equipment Management.

**"§ 130A-309.90. Findings.**

The General Assembly makes the following findings:

- (1) The computer equipment waste stream is growing rapidly in volume and complexity and can introduce toxic materials into solid waste landfills.
- (2) It is in the best interests of the citizens of this State to have convenient, simple, and free access to recycling services for discarded computer equipment.
- (3) Collection programs operated by local government and nonprofit agencies are an efficient way to divert discarded computer equipment from disposal and to provide recycling services to all citizens of this State.
- (4) The development of local and nonprofit collection programs is hindered by the high costs of recycling and transporting discarded computer equipment.
- (5) No other system currently exists, either provided by electronics manufacturers, retailers, or others, to adequately serve all citizens of the State and to divert large quantities of discarded computer equipment from disposal.
- (6) Manufacturer responsibility is an effective way to ensure that manufacturers of computer equipment take part in a solution to the electronic waste problem.
- (7) The recycling of discarded computer equipment recovers valuable materials for reuse and will create jobs and expand the tax base of the State.

**"§ 130A-309.91. Definitions.**

As used in this Part, the following definitions apply:

- (1) Business entity. – Defined in G.S. 55-1-40(2a).
- (2) Computer equipment. – Any desktop central processing unit, any laptop computer, the monitor or video display unit for a computer system, and the

keyboard, mice, and other peripheral equipment. Computer equipment does not include a printing device such as a printer, a scanner, a combination print-scanner-fax machine, or other device designed to produce hard paper copies from a computer; an automobile; a television; a household appliance; a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the federal Food, Drug, and Cosmetic Act.

- (3) Discarded computer equipment. – Computer equipment that is solid waste.
- (4) Discarded computer equipment collector. – A municipal or county government, nonprofit agency, or retailer that accepts discarded computer equipment from the public.
- (5) Manufacturer. – A person who manufactures computer equipment sold under its own brand or label; sells under its own brand or label computer equipment produced by other suppliers; imports into the United States computer equipment that was manufactured outside of the United States; or owns a brand that it licenses to another person for use on computer equipment. Manufacturer includes a business entity that acquires another business entity that manufactures or has manufactured computer equipment.
- (6) Orphan discarded computer equipment. – Any discarded computer equipment for which a manufacturer cannot be identified or for which the manufacturer is no longer in business and has no successor in interest.
- (7) Retailer. – A person who sells computer equipment in the State to a consumer. Retailer includes a manufacturer of computer equipment that sells directly to a consumer through any means, including transactions conducted through sales outlets, catalogs, the Internet, or any similar electronic means, but does not include a person who sells computer equipment to a distributor or retailer through a wholesale transaction.

**"§ 130A-309.92. Responsibility for recycling discarded computer equipment.**

**In addition to the specific requirements of this Part, discarded computer equipment collectors and manufacturers share responsibility for the recycling of discarded computer equipment and the education of citizens of the State as to recycling opportunities for discarded computer equipment."**  
**§ 130A-309.93. Requirements for manufacturers.**

(a) Registration and Fee Required. – Each manufacturer of computer equipment, before selling or offering for sale computer equipment in North Carolina, shall register with the Department and, at the time of registration, shall pay an initial registration fee of ten thousand dollars (\$10,000) to the Department. A computer equipment manufacturer

that has registered shall pay an annual renewal registration fee of one thousand dollars (\$1,000) to the Department. The annual renewal registration fee shall be paid each year no later than the first day of the month in which the initial registration fee was paid. The proceeds of these fees shall be credited to the Computer Equipment Management Account. A manufacturer of computer equipment that sells 1,000 items of computer equipment or less per year is exempt from the requirement to pay the registration fee and the annual renewal fee imposed by this subsection.

(b) Manufacturer Label Required. – A manufacturer shall not sell or offer to sell computer equipment in this State unless a visible, permanent label clearly identifying the manufacturer of that device is affixed to the equipment.

(c) Computer Equipment Recycling Plan. – Each manufacturer of computer equipment shall develop and submit to the Department a plan for reuse or recycling of discarded computer equipment in the State produced by the manufacturer. The manufacturer shall submit a proposed plan to the Department within 120 days of registration as required by subsection (a) of this section. The plan shall:

- (1) Describe any direct take-back program to be implemented by the manufacturer, including mail-back programs and collection events.
- (2) Provide that the manufacturer will take responsibility for discarded computer equipment it manufactured.
- (3) Include a detailed description as to how the manufacturer will implement and finance the plan.
- (4) Provide for environmentally sound management practices to transport and recycle discarded computer equipment.
- (5) Describe the performance measures that will be used by the manufacturer to document recovery and recycling rates for discarded computer equipment. The calculation of recycling rates shall include the amount of discarded computer equipment managed under the manufacturer's program divided by the amount of computer equipment sold by the manufacturer in North Carolina.
- (6) Describe in detail how the manufacturer will provide for transportation of discarded computer equipment at no cost from discarded computer equipment collectors.
- (7) Describe in detail how the manufacturer will fully cover the costs of processing discarded computer equipment received from discarded computer equipment collectors.
- (8) Include a public education plan on the laws governing the recycling and reuse of discarded computer equipment under this Part and on the methods available to consumers to comply with those requirements.

(d) Computer Equipment Recycling Plan Revision. – A manufacturer may prepare a revised plan and submit it to the Department at any time as the manufacturer considers appropriate in response to changed circumstances or needs. The Department may require a manufacturer to revise or update a plan if the Department finds that the plan is inadequate or out-of-date.

(e) Payment of Costs for Plan Implementation. – Each manufacturer is responsible for all costs associated with the development and implementation of its plan. A manufacturer shall not collect a charge for the management of discarded computer equipment at the time the equipment is discarded.

(f) Joint Computer Equipment Recycling Plans. – A manufacturer may fulfill the requirements of this section by participation in a joint recycling plan with other manufacturers. A joint plan shall meet the requirements of subsection (c) of this section.

(g) Annual Report. – Each manufacturer shall submit a report to the Department by 1 February of each year that includes all of the following for the previous calendar year:

- (1) A description of the collection and recycling services used to recover the manufacturer's products.
- (2) The quantity and type of computer equipment sold by the manufacturer to retail consumers in this State.
- (3) The quantity and type of discarded computer equipment collected by the manufacturer for recovery in this State for the preceding calendar year.
- (4) Any other information requested by the Department.

"§ 130A-309.94. Requirements for discarded computer equipment collectors. Each discarded computer equipment collector shall ensure that discarded computer equipment received by the collector is consolidated at central locations, properly stored, and either held for pickup by a manufacturer or delivered to a facility designated by a manufacturer.

**"§ 130A-309.95. Responsibilities of the Department.**

In addition to its other responsibilities under this Part, the Department shall:

- (1) Develop and maintain a current list of manufacturers that are in compliance with the requirements of G.S. 130A-309.93 and provide the current list to the Office of Information Technology Services each time that the list is updated.
- (2) Develop and implement a public education program on the laws governing the recycling and reuse of discarded computer equipment under this Part and on the methods available to consumers to comply with those requirements. The Department shall make this information available on the Internet and shall provide technical assistance to manufacturers to meet the requirements of G.S. 130A-309.93(c)(8). The Department shall also provide technical assistance to units of local government on the establishment and operation of discarded computer equipment collection centers and in the development and implementation of local public education programs.
- (3) Maintain the confidentiality of any information that is required to be submitted by a manufacturer under this Part that is designated as a trade secret, as defined in G.S. 66-152(3) and that is designated as confidential or as a trade secret under G.S. 132-1.2.

**"§ 130A-309.96. Computer Equipment Management Account.**

The Computer Equipment Management Account is created as a nonreverting account within the Department. Funds in the Account shall be used by the Department to implement the provisions of this Part.

**"§ 130A-309.97. Enforcement.**

This Part may be enforced as provided by Part 2 of Article 1 of this Chapter.

**"§ 130A-309.98. Annual report.**

No later than 1 April of each year, the Department shall submit a report on the recycling of discarded computer equipment in the State under this Part to the Environmental Review Commission. The report must include an evaluation of the recycling rates in the State for discarded computer equipment, a discussion of compliance and enforcement related to the requirements of this Part, and any recommendations for any changes to the system of collection and recycling of discarded computer equipment or other electronic devices."

**SECTION 16.1.(b)** The Department shall include in the annual report for 1 April 2011, as required by G.S. 130A-309.98, as enacted by Section 16.1(a) of this act, an analysis of the feasibility and advisability of deleting the exclusion of printing devices from the definition of computer equipment as set out in G.S. 130A-309.91, as enacted by Section 16.1(a) of this act.

**SECTION 16.2.** G.S. 130A-309.09A(b)(6) reads as rewritten:

"(6) Include an assessment of current programs and a description of intended actions with respect to:

- a. Education with the community and through the schools.
- b. Management of special wastes.
- c. Prevention of illegal disposal and management of litter.
- d. Purchase of recycled materials and products manufactured with recycled materials.
- e. For each county and each municipality with a population in excess of 25,000, collection of discarded computer equipment, as defined in G.S. 130A-309.91."

**SECTION 16.3.** G.S. 130A-309.10(f) is amended by adding a new subdivision to read:

"(14) Discarded computer equipment, as defined in G.S. 130A-309.91."

**SECTION 16.4.** G.S. 130A-309.10(f1) is amended by adding a new subdivision to read:

"(7) Discarded computer equipment, as defined in G.S. 130A-309.91."

**SECTION 16.5.** Part 4 of Article 3D of Chapter 147 of the General Statutes is amended by adding a new section to read:

**"§ 147-33.104. Purchase by State agencies and governmental entities of certain computer equipment prohibited.**

(a) The exemptions set out in G.S. 147-33.80 do not apply to this section.

(b) No State agency, political subdivision of the State, or other public body shall purchase computer equipment, as defined in G.S. 130A-309.91, from any manufacturer determined not to be in compliance with the requirements of G.S. 130A-309.93 as

determined from the list provided by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.95(1).

(c) The Office of Information Technology Services shall make the list available to political subdivisions of the State and other public bodies. A manufacturer that is not in compliance with the requirements of G.S. 130A-309.93 shall not sell or offer for sale computer equipment to the State, a political subdivision of the State, or other public body."

**SECTION 16.6.(a)** Part 2E of Article 9 of Chapter 130A of the General Statutes, as enacted by Section 16.1(a) of this act, becomes effective as follows:

- (1) G.S.130A-309.90 becomes effective 1 January 2009.
- (2) G.S.130A-309.91 becomes effective 1 January 2009.
- (3) G.S.130A-309.92 becomes effective 1 January 2009.
- (4) G.S.130A-309.93(a) becomes effective 1 January 2009.
- (5) G.S.130A-309.93(b) becomes effective 1 January 2009.
- (6) G.S.130A-309.93(c) becomes effective 1 October 2009.
- (7) G.S.130A-309.93(d) becomes effective 1 October 2009.
- (8) G.S.130A-309.93(e) becomes effective 1 January 2009.
- (9) G.S.130A-309.93(f) becomes effective 1 January 2009.
- (10) G.S.130A-309.93(g) becomes effective 1 February 2011.
- (11) G.S.130A-309.94 becomes effective 1 January 2010.
- (12) G.S.130A-309.95(1) becomes effective 1 January 2009.
- (13) G.S.130A-309.95(2) becomes effective 1 January 2009.
- (14) G.S.130A-309.95(3) becomes effective 1 January 2009.
- (15) G.S.130A-309.96 becomes effective 1 January 2009.
- (16) G.S.130A-309.97 becomes effective 1 January 2009.
- (17) G.S.130A-309.98 becomes effective 1 April 2011.

**SECTION 16.6.(b)** Section 16.2 of this act becomes effective 1 January 2009. Sections 16.3 and 16.4 of this act become effective 1 January 2012. Section 16.5 of this act becomes effective 1 July 2009. Subsection (b) of Section 16.1 of this act, Section 16.6 of this act, and any other provision of this act for which an effective date is not specified become effective 1 January 2009.