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H. 3200

STATUS INFORMATION

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Introduced in the House on January 13, 2009

Currently residing in the House Committee on **Agriculture, Natural Resources and Environmental Affairs**

Summary: Electronics Recycling Act

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
12/16/2008	House	Prefiled
12/16/2008	House	Referred to Committee on Agriculture, Natural Resources and Environmental Affairs
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VERSIONS OF THIS BILL

[12/16/2008](#)

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A BILL

11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING ARTICLE 3 TO CHAPTER 96, TITLE 44,
13 SO AS TO ENACT THE “ELECTRONICS RECYCLING ACT”,
14 AND TO PROVIDE FOR THE RECYCLING OF CERTAIN
15 ELECTRONIC DEVICES, TO REQUIRE MANUFACTURERS
16 OF THESE DEVICES TO REGISTER WITH THE
17 DEPARTMENT OF HEALTH AND ENVIRONMENTAL
18 CONTROL, TO PAY REGISTRATION FEES TO FUND THE
19 ADMINISTRATION OF THIS ARTICLE, AND TO PAY FEES
20 TO FUND THE TRANSPORTATION AND RECYCLING OF
21 THESE DEVICES, TO PROHIBIT MANUFACTURERS OF
22 THESE DEVICES FROM SELLING THEM IN THIS STATE
23 UNLESS THE MANUFACTURER IS REGISTERED AND IN
24 COMPLIANCE WITH THIS ARTICLE, TO AUTHORIZE AND
25 ESTABLISH REQUIREMENTS FOR PRIVATE RECYCLING
26 PROGRAMS FOR THESE ELECTRONIC DEVICES, TO
27 REQUIRE THAT ELECTRONIC RECYCLING INFORMATION
28 BE PROVIDED TO CONSUMERS OF THESE DEVICES, AND
29 TO PROHIBIT AFTER DECEMBER 31, 2013 THE DISPOSAL
30 OF THESE ELECTRONIC DEVICES IN SOLID WASTE
31 DISPOSAL FACILITIES.

32
33 Whereas, the General Assembly finds that:
34 (1) Electronics scrap, or ‘e-scrap’ is one of the fastest growing
35 waste streams in the nation. Each year hundreds of thousands of
36 computers, monitors, televisions, printers, fax machines, copiers,
37 cell phones, and other electronics become obsolete.
38 (2) E-scrap poses a complex challenge beyond sheer numbers.
39 E-scrap is a significant source of heavy metals and organic
40 pollutants in the nation’s waste stream. Some electronics, usually
41 those with cathode ray tubes, circuit boards, batteries and mercury

1 switches, contain hazardous materials including lead, mercury,
2 cadmium, and chromium.

3 (3) If not properly managed, e-scrap can be hazardous to
4 human health and the environment.

5 (4) Recycling is good for the environment by conserving
6 natural resources, saving energy, and reducing the need to build
7 landfills. Recycling is also good for the economy. In South
8 Carolina, recycling has a \$6.5 billion impact on the State's
9 economy. The recycling industry is directly responsible for 15,000
10 jobs, \$1.5 billion in annual personal income, and \$69 million in tax
11 revenue each year. Currently, there are about two dozen South
12 Carolina companies that are part of the e-scrap recycling industry.

13 (5) Many components of e-scrap, such as precious metals, have
14 value on the recycling market.

15 (6) No other recycling system currently exists, either provided
16 by electronics manufacturers, retailers, or others to adequately
17 serve consumers in the State.

18 (7) The purpose of this article is to enact a comprehensive
19 system for the collection and recycling of electronic scrap when
20 discarded by South Carolina consumers.

21 (8) Further, it is the purpose of this article for the State to
22 provide a statewide electronics recycling program to protect
23 human health and the environment by:

24 (a) recovering and recycling valuable components of
25 electronic scrap;

26 (b) providing business opportunities that support the State's
27 economy; and

28 (c) eliminating the disposal of electronics scrap in landfills.

29 (9) The statewide electronics recycling program will:

30 (a) be accessible to all consumers that purchase electronic
31 equipment at the retail level;

32 (b) be convenient and simple for all consumers, i.e., built
33 around collection systems that are not burdensome for consumers;

34 (c) be free of cost at end-of-life;

35 (d) incorporate existing electronics recyclers in the State.

36 Now, therefore,

37

38 Be it enacted by the General Assembly of the State of South
39 Carolina:

40

41 SECTION 1. Chapter 96, Title 44 of the 1976 Code is amended
42 by adding:

43

1 “Article 3

2
3 Electronics Recycling

4
5 Section 44-96-600. This article may be cited as the ‘Electronics
6 Recycling Act’.

7
8 Section 44-96-610. As used in this article:

9 (1) ‘Cathode ray tube’ or ‘CRT’ means a vacuum tube,
10 composed primarily of glass, which is the visual or video display
11 component of an electronic device.

12 (2) ‘Collector’ means a local governmental entity, retailer,
13 manufacturer, or recycler that accepts covered electronic devices
14 for recycling.

15 (3) ‘Computer’ means an electronic, magnetic, optical,
16 electrochemical, or other high speed data processing device
17 performing logical, arithmetic, or storage function and may
18 include, but is not limited to, both a computer central processing
19 unit and a monitor but does not include an automated typewriter or
20 typesetter, a portable handheld calculator, a portable digital
21 assistant, or other similar device.

22 (4) ‘Consumer’ means an individual who purchases new or
23 refurbished electronic equipment as a retail sale or in a transaction
24 in which a use tax applies. A consumer does not include businesses
25 or other organizations.

26 (5) ‘Covered electronic device’ or ‘CED’ means desktop or
27 personal computers, computer monitors, portable computers,
28 CRT-based televisions and non-CRT-based televisions or any
29 other similar or peripheral electronic device specified in
30 regulations sold to consumers. A ‘CED’ does not include:

31 (a) an electronic device that is a part of a motor vehicle or
32 any component part of a motor vehicle assembled by, or for, a
33 vehicle manufacturer or franchise dealer, including replacement
34 parts for use in a motor vehicle;

35 (b) an electronic device that is functionally or physically a
36 part of a larger piece of equipment designed and intended for use
37 in an industrial, commercial, or medical setting, including
38 diagnostic, monitoring, or control equipment;

39 (c) an electronic device that is contained within a clothes
40 washer, clothes dryer, refrigerator, freezer, microwave oven,
41 conventional oven or range, dishwasher, room air conditioner,
42 dehumidifier, or air purifier;

1 (d) telephones of any type unless they contain a video
2 display area greater than four inches measured diagonally; and
3 (e) other devices as specified by the department in
4 regulations promulgated pursuant to Section 44-96-720;
5 (6) 'Covered electronic device recycler' means a person who is
6 approved by the department to recycle covered electronic devices.
7 (7) 'Department' means the Department of Health and
8 Environmental Control.
9 (8) 'Director' means the Director of the Department of Health
10 and Environmental Control.
11 (9) 'Electronics scrap' or e-scrap' means electronic equipment
12 that has been discarded. E-scrap includes computers, monitors, and
13 peripherals, as well as laptop computers and televisions.
14 (10) 'Manufacturer' means a person who:
15 (a) manufactures or manufactured for sale in this State
16 covered electronic devices under a brand that it licenses, owns, or
17 owned;
18 (b) manufactures or manufactured for sale in this State
19 covered electronic devices without affixing a brand;
20 (c) resells or has resold in this State under its own brand or
21 label a covered electronic device produced by other suppliers,
22 including retail establishments that sell covered electronic devices
23 under their own brand names;
24 (d) imports or imported into the United States covered
25 electronic devices for sale in this State;
26 (e) sells at retail a covered electronic device acquired from
27 an importer that is the manufacturer, as defined in subitem (d), and
28 elects to register in lieu of the importer as the manufacturer for
29 these devices;
30 (f) manufactures or manufactured covered electronic
31 devices, supplies them to a person or persons within a distribution
32 network that includes wholesalers or retailers in this State, and
33 benefits from the sale in this State of these covered electronic
34 devices through this distribution network.
35 (11) 'Manufacturer's brands' means a manufacturer's name,
36 brand name, or brand label and all of a manufacturer's names,
37 brand names, and brand labels for which the manufacturer has
38 legal responsibility, including those names, brand names, and
39 brand labels of companies that have been acquired by the
40 manufacturer.
41 (12) 'Market share' means a manufacturer's national sales of a
42 particular product category of CEDs expressed as a percentage of

1 the total of all manufacturers' national sales for such product
2 category of CEDs.

3 (13) 'Monitor' means a separate video display component of a
4 computer that does not contain a tuner, whether sold separately or
5 together with a computer central processing unit or computer box,
6 and that includes a cathode ray tube, liquid crystal display, gas
7 plasma, digital light processing, or other image projection
8 technology greater than four inches when measured diagonally and
9 its case, interior wires, and circuitry.

10 (14) 'Orphan device' means a covered electronic device,
11 excluding CRT based televisions and non-CRT based television,
12 for which no manufacturer can be identified or for which the
13 manufacturer is no longer in business and has no successor in
14 interest.

15 (15) 'Person' means an individual, trust firm, joint stock
16 company, business concern and corporation including, but not
17 limited to, a government department, partnership, limited liability
18 company or association.

19 (16) 'Portable computer' means a computer and video display
20 greater than four inches in size that can be carried as one unit by an
21 individual including, but not limited to, a laptop computer.

22 (17) 'Purchase' means the taking, by sale, of title in exchange
23 for consideration.

24 (18) 'Recycling' means any process by which covered electronic
25 devices that would otherwise become solid waste or hazardous
26 waste are collected, separated, and processed in accordance with
27 environmental standards established by the department to be
28 returned to use in the form of raw materials or products.

29 (19) 'Registrant' means a manufacturer or group of
30 manufacturers of covered electronic devices who are registered
31 with the department.

32 (20) 'Retail sales' includes sales of products through sales
33 outlets, mail order or the Internet, or other similar means, whether
34 or not the seller has a physical presence in this State.

35 (21) 'Retailer' means a person who makes a retail sale of new or
36 refurbished electronic equipment and includes a manufacturer of
37 electronic equipment who sells that equipment directly to a
38 consumer through any means including, but not limited to, a
39 transaction conducted through a sales outlet, catalog, Internet, or
40 any other similar electronic means.

41 (22) 'Sell' or 'sale' means any transfer of title for consideration
42 including, but not limited to, transactions conducted through sales

1 outlets, mail order, or the Internet, or any other similar means,
2 excluding leases.

3 (23) 'Television' means a stand-alone display system containing
4 a CRT or any other type of display primarily intended to receive
5 video programming via broadcast, having a viewable area greater
6 than four inches when measured diagonally, able to adhere to
7 standard consumer video formats such as PAL, SECAM, NTSC,
8 ATSC and HDTV, and having a capability of selecting different
9 broadcast channels and support sound capability.

10 (24) 'Video display' means an output surface having a viewable
11 area greater than four inches when measured diagonally that
12 displays moving graphical images or a visual representation of
13 image sequences or pictures, showing a number of quickly
14 changing images on a screen in fast succession to create the
15 illusion of motion including, but not limited to, a device that is an
16 integral part of the display that cannot be easily removed from the
17 display by the consumer and that produces the moving image on
18 the screen and includes technology using a cathode ray tube, liquid
19 crystal display, gas plasma, digital light processing, or other image
20 projection technology.

21
22 Section 44-96-620.(A) Each manufacturer of covered
23 electronic devices shall register with the Department of Health and
24 Environmental Control before July first of each year on a form
25 prescribed by the department and accompanied by a fee as
26 provided for in this section.

27 (B)(1) A manufacturer who sold CEDs in this State in 2009
28 shall pay an initial registration fee of five thousand dollars before
29 July 1, 2010.

30 (2) A manufacturer who began selling CEDs in this State
31 after December 31, 2009, shall pay an initial registration fee of five
32 thousand dollars before July first of the year following its initial
33 sale of CEDs in this State.

34 (C) In subsequent years all manufacturers shall pay an annual
35 registration renewal fee as determined by the department in
36 accordance with Section 44-96-720.

37 (D) The proceeds of the fees received from registrants in the
38 electronic device recycling program must be remitted to the State
39 Treasurer and deposited in an account established for the
40 administration of this article, unless otherwise provided for in this
41 article.

42

1 Section 44-96-630. The department shall establish a statewide
2 covered electronics recycling program that establishes statewide
3 per capita collection and recycling goals and identifies any
4 necessary action to achieve these goals. A description of this
5 program must be posted on the department's website. Every three
6 years the department shall review and if necessary revise the goals
7 and actions needed to achieve these goals.

8

9 Section 44-96-640. (A) Each manufacturer shall participate
10 in the statewide electronics recycling program to implement and
11 finance the transportation and recycling of covered electronic
12 devices and may offer or participate in a private electronics
13 recycling program.

14 (B) Each local governmental entity shall participate in the
15 statewide electronics recycling program. A municipality or county
16 may elect to participate in the state-wide electronics program
17 through its regional recycling authority. Each municipality,
18 county, or regional authority shall:

19 (1) provide for the collection of CEDs from its residents;

20 (2) arrange for the transportation of collected CEDs to a
21 covered electronic device recycler; and

22 (3) make readily available to residents the time and location
23 of the collection of CEDs, and in providing collection and
24 recycling opportunities to its residents, give priority to
25 convenience and accessibility.

26 (C) Each covered electronic device recycler shall:

27 (1) cooperate with all municipalities, counties, and regional
28 authorities to provide for the collection and transportation of
29 CEDs;

30 (2) reimburse a municipality, county, or regional authority
31 for the municipality's, county's, or regional authority's qualified
32 costs of transportation as provided for in regulation;

33 (3) recycle all collected CEDs in accordance with the
34 minimum standards established in Section 44-96-650;

35 (4)(a) for CEDs other than CRT-based televisions and
36 non-CRT-based televisions, maintain a written log that identifies
37 responsible manufacturers by recording the brand and weight of
38 each CED delivered to a covered electronic device recycler and
39 identified upon receipt as generated by a consumer in this State;
40 and

41 (b) for CRT-based televisions and non-CRT-based
42 televisions, maintain a written log of the total weight of these
43 televisions delivered each month to a covered electronic device

1 recycler and identified upon receipt as generated by a consumer in
2 this State;

3 (5) invoice manufacturers quarterly for the reasonable costs
4 of transporting and recycling that the manufacturer is responsible
5 for under this section with these costs calculated for:

6 (a) CRT-based and non-CRT based televisions, on a
7 sliding scale basis that is representative of the manufacturer's
8 market share of these televisions in the State multiplied by the total
9 pounds recycled. Market share information must be based upon
10 available national market share data;

11 (b) CEDs other than CRT-based televisions and
12 non-CRT-based televisions on a per pound basis on separate
13 invoices; and

14 (c) both subitems (a) and (b), not to exceed fifty cents per
15 pound or an amount determined by the department in regulations
16 promulgated pursuant to Section 44-96-650;

17 (6) report to the department all manufacturers that are in
18 arrears for more than ninety days;

19 (7) file a plan for carrying out the provisions of this section
20 on a form approved by the department.

21 Nothing in this subsection prohibits a registered manufacturer
22 from entering into a cooperative agreement with a covered
23 electronic device recycler to return the manufacturer's CEDs for
24 subsequent recycling by the manufacturer if the manufacturer
25 certifies to the department that the CEDs have been recycled in
26 accordance with subsection (E) and the manufacturer reimburses
27 the covered electronic device recycler for the recycler's qualified
28 costs, as provided for in regulation.

29 (D) Each manufacturer shall pay the reasonable costs of
30 transportation and recycling incurred by a covered electronic
31 device recycler for the CEDs attributed to the manufacturer and the
32 manufacturer's pro rata share of orphan devices processed by a
33 covered electronic device recycler. A manufacturer's pro rata
34 share of orphan devices must be calculated as a manufacturer's
35 market share for each product category of CEDs for the preceding
36 calendar year divided by the total market share of all registered
37 manufacturers for the same year multiplied by the total, in pounds,
38 of orphan devices returned. The department may suspend the
39 registration of any manufacturer in arrears for more than ninety
40 days. A manufacturer that has had its manufacturer's registration
41 suspended in accordance with this subsection shall demonstrate
42 that all past due payments, and a penalty equivalent to ten percent
43 of the past due payments, have been paid to the department before

1 seeking reinstatement of the registration. A penalty paid pursuant
2 to this subsection must be remitted to the State Treasurer and
3 deposited into the account established for the administration of this
4 article and used for the purpose of reimbursing covered electronic
5 device recyclers for unpaid qualified expenses in accordance with
6 this section and as provided for in regulation. Any covered
7 electronic device recycler seeking reimbursement for unpaid
8 qualified expenses shall file a request with the department and
9 certify that these expenses are qualified. The department shall
10 reimburse each covered electronic device recycler to the extent that
11 funds are available.

12 (E) A private program for the collection, transportation, and
13 recycling of CEDs shall comply with the standards established in
14 Section 44-96-650. A manufacturer participating in a private
15 program shall file a description of the program with the
16 manufacturer's annual registration including:

17 (1) the methods that will be used to collect the covered
18 electronic devices including, but not limited to, the name and
19 locations of all collection and consolidation points;

20 (2) the processes and methods that will be used to recycle
21 covered electronic devices, including a description of the
22 disassembly and physical recovery operation such as crushing,
23 shredding, grinding, glass-to-glass recycling, or other operations
24 that will be used;

25 (3) the name and location of all facilities to be utilized;

26 (4) documentation of audits of each processor used in the
27 plan and compliance with processing standards established in
28 Section 44-96-650;

29 (5) a description of the means that will be utilized to
30 publicize the collection opportunities; and

31 (6) the total weight of CEDs collected, transported, and
32 recycled the previous year.

33

34 Section 44-96-650. (A) Covered electronic devices collected
35 through any program in this State, whether by manufacturers,
36 retailers, for-profit or not-for-profit corporations, units of
37 government, or organized by the department, must be recycled in a
38 manner that is in compliance with all applicable federal, state, and
39 local laws, regulations, and ordinances and must not be exported
40 for disposal in a manner that poses a risk to the public health or to
41 the environment.

42 (B) The department shall establish performance requirements
43 for CED recyclers in order for these recyclers to be eligible to

1 receive funds from this CED recycling program. All entities, at a
2 minimum, shall demonstrate compliance with the United States
3 Environmental Protection Agency's Plug-In to eCycling
4 Guidelines for Materials Management as issued and available on
5 the agency's website in addition to any other requirements
6 mandated by state or federal law.

7
8 Section 44-96-660. After December 31, 2009, a manufacturer
9 or retailer may not sell or offer for sale a covered electronic device
10 in the State unless it is labeled with the manufacturer's brand, and
11 the label is permanently affixed and readily visible.

12
13 Section 44-96-670.(A) The department shall post a list of all
14 manufacturers in compliance with the requirements of this article
15 on the department's website and shall maintain and annually
16 update this list. Retailers shall consult the list before selling
17 covered electronic devices. A retailer may not offer for sale in this
18 State a covered electronic device of a manufacturer that is not in
19 compliance with this article. A retailer is considered to have
20 complied with this requirement if, on the date that the product was
21 ordered from the manufacturer or its agent, the manufacturer was
22 listed as being in compliance on the department's website.

23 (B) Notwithstanding subsection (A), a retailer may sell any
24 CEDs ordered or in stock at the time of the initial posting of the
25 list, regardless of whether the manufacturer of the CED is on the
26 list, until six months after the initial posting.

27
28 Section 44-96-680. A retailer shall provide consumers with
29 covered electronic device recycling information provided by the
30 department. This information must include a toll-free telephone
31 number and a website to obtain further information on CED
32 recycling. The information must be included in the packaging of
33 the covered electronic device or must accompany the sale of the
34 covered electronic device. If applicable, each manufacturer shall
35 make readily available to all retailers, selling that manufacturer's
36 CEDs, information concerning the manufacturer's private program
37 for the collection, transportation, and recycling of CEDs that has
38 been submitted to the department, in accordance with this article.

39
40 Section 44-96-690. A collector may only receive seven
41 covered electronic devices at any one time from a consumer and
42 may not charge the consumer any fees or costs for the collection,
43 transportation, or recycling of these covered electronic devices.

1

2 Section 44-96-700. (A) After December 31, 2013, a
3 consumer must not knowingly place a covered electronic device or
4 any of the components or subassemblies of a covered electronic
5 device in any solid waste disposal facility.

6 (B) An owner or operator of a solid waste disposal facility is
7 not in violation of subsection (A) if the owner or operator has:

8 (1) made a good faith effort to comply with this section;

9 (2) posted, in a conspicuous location at the facility, a sign
10 stating that covered electronic devices or any components of
11 covered electronic devices are not accepted at the facility; and

12 (3) notified, in writing, all collectors registered to haul solid
13 waste to the facility that covered electronic devices or components
14 of covered electronic devices are not accepted at the facility.

15 (C) For the purposes of this section, 'solid waste disposal
16 facility' means 'solid waste disposal facility' as defined in Section
17 44-96-40.

18

19 Section 44-96-710. The department may issue cease and
20 desist orders for any violation of this article and may suspend or
21 revoke a registration issued by the department under Section
22 44-96-620 upon a showing of cause and after a hearing. Civil
23 proceedings to enforce this article may be brought by the
24 department in a court of competent jurisdiction, which may grant
25 restraining orders and temporary and permanent injunctive relief as
26 may be necessary to secure compliance with this article.

27

28 Section 44-96-720. The department shall promulgate
29 regulations, in accordance with the Administrative Procedures Act
30 to carry out the provisions of this article. These regulations must
31 include, but are not limited to, provisions that establish:

32 (1) annual manufacturer registration and renewal fees and
33 such other fees as may be necessary for the administration of this
34 article. All fees charged must be based on factors relative to the
35 costs of administering this article. Fees must be established in
36 amounts to fully cover but not to exceed expenses incurred for the
37 administration of the article, including the cost of any education or
38 outreach necessary to carry out the requirements of this article;

39 (2) a process for and requirements to become a covered
40 electronic device recycler;

41 (3) a table of qualified reimbursable costs for covered
42 electronic device recyclers;

1 (4) standards for operation, accounting, and auditing of
2 covered electronic device recyclers;
3 (5) a list of covered electronic devices and the list may include
4 additional devices other than those defined in Section 44-96-610
5 including, but not limited to, printers; and
6 (6) any other requirements necessary to carry out the
7 provisions of this article.

8
9 Section 44-96-730. Annually, the department shall gather
10 information from manufacturers and prepare a report regarding the
11 status of the electronics recycling program. The department shall
12 submit the report to the General Assembly. The report must
13 contain:

14 (1) sufficient data, as determined by the department, and
15 analysis of this data to evaluate the effectiveness of the statewide
16 recycling program and the components of the program; and

17 (2) information on federal law if at any time the federal
18 government establishes a national program for the collection and
19 recycling of electronic devices and the department determines that
20 the federal law substantially meets or exceeds the requirements of
21 this article.

22
23 Section 44-96-740. Except for Sections 44-96-610,
24 44-96-620, 44-96-660, 44-96-700, and 44-96-720, which take
25 effect upon approval by the Governor, the remaining sections of
26 this article become effective upon the promulgation of regulations
27 by the department as required by this article.”

28
29 SECTION 2. This act takes effect upon approval by the Governor,
30 except as otherwise provided for in Section 44-96-740 of the 1976
31 Code, as added by Section 1 of this act.

32 ----XX----

33