



RESOLUTION

APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A PROPOSAL RELATING TO ELECTRONIC WASTE RECYCLING.

WHEREAS, in the United States, electronic waste is rapidly becoming the fastest growing segment of the municipal solid waste stream; and

WHEREAS, common examples of electronic waste include televisions, radios, disc and tape recorders and players, audio/visual equipment, computer-related devices, personal digital assistants, cellular telephones, telephone systems, answering machines, computer games, electronic toys, camcorders, and digital cameras; and

WHEREAS, the City anticipates the amount of electronic items being discarded to increase as technology advances and becomes more prevalent in the workplace and at home; and

WHEREAS, electronic waste is a particular concern with regard to public health and safety because such waste frequently contains toxic materials, such as lead in the circuit board soldering or in the cathode ray tube; and

WHEREAS, legislation is needed to reduce electronic waste and increase the recycling of electronic devices; and

WHEREAS, the unanimous approval of the county councils is necessary for inclusion of a proposal in the Hawaii State Association of Counties ("HSAC") legislative package; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it approves for inclusion in the 2013 HSAC legislative package a proposal, attached as Exhibit A, that would strengthen the laws relating to electronic waste recycling; and



RESOLUTION

BE IT FINALLY RESOLVED that a copy of this Resolution be transmitted to the President of the Hawaii State Association of Counties and the Mayors of the counties of Kauai, Hawaii, Honolulu and Maui.

INTRODUCED BY:

[Handwritten Signature]

Councilmembers

CITY OF HONOLULU
CITY CLERK
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DATE OF INTRODUCTION:

JUL 18 2012

Honolulu, Hawaii

Exhibit A

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____.B. NO.____

A BILL FOR AN ACT

RELATING TO ELECTRONIC WASTE RECYCLING.

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

SECTION 1. Chapter 339D, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

"§339D-A Annual reporting; determination of market share.

(a) Each electronic device manufacturer shall report annually to the department its sales, by weight, of the manufacturer's covered electronic devices in the State, categorized by type, to the extent known. If the electronic device manufacturer is unable to provide accurate sales data, it shall explain why the data cannot be provided and estimate its sales data using a method established by the department by rule.

b) The department shall determine annually an electronic device manufacturer's market share. An electronic device

1 manufacturer's market share shall be the percentage of the
2 weight of all covered electronic devices sold in the State
3 comprised of covered electronic devices sold by the electronic
4 device manufacturer.

5 (c) The department shall use the best available
6 information to establish the weight of all electronic devices
7 sold in the State, including but not limited to the reports
8 submitted pursuant to subsection (a), state and national sales
9 data, and other reliable commercially available, supplemental
10 sources of information.

11 (d) Beginning March 15, 2014, and each year thereafter,
12 the department shall notify each electronic device manufacturer
13 of its recycling responsibility under section 339D-4, based on
14 the department's determination of its market share.

15 **§339D-B Liability for stored information.**

16 An electronic device manufacturer shall not be liable for
17 any loss or misuse of electronic data or other information that
18 a consumer may have stored on a covered electronic device that
19 is recovered or recycled by the electronic device manufacturer.

20 **§339D-C Environmental management.**

21 (a) All covered electronic devices shall be recycled
22 pursuant to this chapter, in a manner that complies with
23 applicable federal, state, and county laws and requirements.

1 (b) The department shall adopt rules, pursuant to chapter
2 91, that include the Institute of Scrap Recycling Industries,
3 Inc.'s Electronics Recycling Operating Practices as requirements
4 for recycling covered electronic devices.

5 §339D-D State procurement.

6 Any state or county agency that purchases or leases any
7 covered electronic device shall require each prospective offeror
8 to certify compliance with this chapter. Failure to provide
9 certification shall disqualify the prospective offeror."

10 SECTION 2. Section 339D-1, Hawaii Revised Statutes, is
11 amended as follows:

12 By amending the definitions of "brand", "covered electronic
13 device", "covered entity", "covered television", "recycling",
14 and "retailer" to read:

15 1. "'Brand" means a symbol, word, or mark that identifies
16 a covered electronic device [~~or a covered television~~], rather
17 than any of its components.

18 "Covered electronic device":

19 (1) Means [a]:

20 (A) A computer, computer printer, computer
21 monitor, or portable computer with a screen
22 size greater than four inches measured
23 diagonally; [~~and~~] or

1 (B) A television with a screen size of nine
2 inches or larger as measured diagonally;
3 and

4
5 (2) Shall not include:

6 (A) A covered electronic device that is a part
7 of a motor vehicle or any component part of
8 a motor vehicle assembled by or for a motor
9 vehicle manufacturer or franchised dealer,
10 including replacement parts for use in a
11 motor vehicle;

12 (B) A covered electronic device that is
13 functionally or physically required as a
14 part of a larger piece of equipment designed
15 and intended for use in an industrial,
16 commercial, or medical setting, including
17 diagnostic, monitoring, or control
18 equipment;

19 (C) A covered electronic device that is
20 contained within a clothes washer, clothes
21 dryer, refrigerator, refrigerator and
22 freezer, microwave oven, conventional oven

1 or range, dishwasher, room air conditioner,
2 dehumidifier, or air purifier; or

3 (D) A telephone of any type."

4 "Covered entity" means any [~~household,~~] person, government
5 entity, business, or nonprofit organization exempt from taxation
6 under section 501(c)(3) of the Internal Revenue Code, regardless
7 of size or place of operation within the State.

8 [~~"Covered television" :-~~

9 ~~(1) Means]~~ "Television" means any device that is
10 capable of receiving broadcast, cable, or
11 satellite signals and displaying television or
12 video programming, including without limitation
13 any direct view or projection television [~~with a~~
14 ~~viewable screen of nine inches or larger]~~ with
15 display technology based on cathode ray tube,
16 plasma, liquid crystal, digital light processing,
17 liquid crystal on silicon, silicon crystal
18 reflective display, light emitting diode, or
19 similar technology marketed and intended for use
20 by a [~~household,~~] person;

21 [~~(2) Shall not include:~~

22 ~~(A) A computer, computer printer, computer~~
23 ~~monitor, or portable computer;~~

1 ~~(B) A television that is a part of a motor-~~
2 ~~vehicle or any component part of a motor-~~
3 ~~vehicle assembled by or for a vehicle-~~
4 ~~manufacturer or franchised dealer, including-~~
5 ~~replacement parts for use in a motor-~~
6 ~~vehicle;~~

7 ~~(C) A television that is functionally or-~~
8 ~~physically required as a part of a larger-~~
9 ~~piece of equipment designed and intended for-~~
10 ~~use in an industrial, commercial, or medical-~~
11 ~~setting, including diagnostic, monitoring,~~
12 ~~or control equipment;~~

13 ~~(D) A telephone of any type, including a mobile-~~
14 ~~telephone;] or~~

15 ~~(E) A global positioning system.]~~

16 "Recycling" means processing (including disassembling,
17 dismantling, or shredding) covered electronic devices [~~or-~~
18 ~~covered televisions]~~ or their components to recover a useable
19 product; provided that "recycling" does not include any process
20 defined as incineration under applicable laws and rules."

21 "Retailer" means any person who offers covered electronic
22 devices [~~or covered televisions]~~ for sale, other than for resale

1 by the purchaser, through any means, including sales outlets,
2 catalogs, or the Internet."

3 2. By deleting the definitions of "household", "market
4 share", and "television manufacturer".

5 ~~["Household" means occupant of a single detached
6 dwelling unit or of a single unit of a multiple dwelling unit
7 who has used a covered electronic device or covered television
8 at a dwelling unit primarily for personal or home business use.~~

9 ~~"Market share":~~

10 ~~(1) Means the calculation of a television
11 manufacturer's prior year's sales of televisions
12 divided by all manufacturers' prior year's sales
13 for all televisions, as determined by the
14 department;~~

15 ~~(2) May be expressed as a percentage, a fraction, or
16 a decimal fraction.~~

17 ~~"Television manufacturer" means a person who:~~

18 ~~(1) Manufactures for sale in the State a covered
19 television under a brand that it licenses or
20 owns;~~

21 ~~(2) Manufactures for sale in the State covered
22 televisions without affixing a brand;~~

- 1 ~~(3) Resells into the State a covered television-~~
2 ~~manufactured by others under a brand that the~~
3 ~~seller owns or is licensed to use;~~
- 4 ~~(4) Imports into the United States or exports from~~
5 ~~the United States a covered television for sale-~~
6 ~~in the State;~~
- 7 ~~(5) Sells at retail a covered television acquired-~~
8 ~~from an importer described in paragraph (4), and~~
9 ~~elects to register as the manufacturer for those-~~
10 ~~products;~~
- 11 ~~(6) Manufactures covered televisions and supplies-~~
12 ~~them to any person or persons within a~~
13 ~~distribution network that includes wholesalers or-~~
14 ~~retailers in this State; or~~
- 15 ~~(7) Assumes the responsibilities and obligations of a-~~
16 ~~television manufacturer under this chapter.~~

17 ~~In the event the television manufacturer is one who~~
18 ~~manufactures, sells, or resells covered televisions under a~~
19 ~~brand for which it has obtained the license, then the licensor-~~
20 ~~or brand owner of the brand shall not be included in the~~
21 ~~definition of television manufacturer under paragraph (1) or~~
22 ~~(3)."]~~

1 SECTION 3. Section 339D-4, Hawaii Revised Statutes, is
2 amended by amending subsections (c) and (d) to read as follows:

3 "(c) By June 1, 2009, and annually thereafter, each
4 electronic device manufacturer shall submit a plan to the
5 department to establish, conduct, and manage a program for the
6 collection, transportation, and recycling of its covered
7 electronic devices sold in the State, which shall be subject to
8 the following conditions:

9 ~~(1) The plan shall not permit the charging of a fee~~
10 ~~at the point of recycling if the covered~~
11 ~~electronic device is brought by the covered~~
12 ~~electronic device owner to a central location for~~
13 ~~recycling; provided that the plan may include a~~
14 ~~reasonable transportation fee if the electronic~~
15 ~~device manufacturer or electronic device~~
16 ~~manufacturer's agent removes the covered~~
17 ~~electronic device from the owner's premises at~~
18 ~~the owner's request and if the removal is not in~~
19 ~~conjunction with delivery of a new electronic~~
20 ~~device to the owner; and]~~

21 (1) The plan shall include a description of the
22 methods for the convenient collection of covered
23 electronic devices at no cost to the covered

1 entities. The recycling plan shall provide
2 collection services of covered electronic devices
3 in each county of the state. In addition, for
4 United States Postal Zip Code areas with a
5 population greater than twenty-five thousand, the
6 plan shall provide at least one of the following
7 services:

8 (A) A staffed drop-off site;

9 (B) Alternative collection service such as on-
10 site pick-up service; or

11 (C) Collection events which are periodically
12 held at an easily accessible, central
13 location;

14 (2) Each electronic device manufacturer may develop
15 its own recycling program or may collaborate with
16 other electronic device manufacturers, so long as
17 the program is implemented and fully operational
18 no later than January 1, 2010[-];

19 (3) Each electronic device manufacturer's plan shall
20 provide for recycling covered electronic devices
21 of an amount equal in weight to its market share
22 of covered electronic devices sold in the State

1 each year as determined pursuant to section 339D-

2 A; and

3 (4) Plans that contain only a mail-back option shall
4 not be allowed.

5 (d) By March 31, 2011, and annually thereafter, each
6 electronic device manufacturer shall submit a report to the
7 department of the total weight of all covered electronic devices
8 recycled in the previous year, which may include both an
9 electronic device manufacturer's own covered electronic devices
10 and those of other manufacturers."

11 SECTION 4. Section 339D-6, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~§~~**339D-6**~~§~~ **Department responsibility.**

14 (a) Beginning January 1, 2010, the department shall
15 maintain and update a website and a toll-free number with
16 current information on where covered entities can return covered
17 electronic devices for recycling.

18 (b) The department, in consultation with electronic device
19 manufacturers, shall develop an electronic device recycling
20 education program for consumers."

21 SECTION 5. Section 339D-7.5, Hawaii Revised Statutes, is
22 amended to read as follows:

1 " ~~[+]§339D-7.5[+]~~ **Manufacturer and agent responsibilities;**
2 **regulatory compliance.**

3 Each electronic device manufacturer ~~[and television-~~
4 ~~manufacturer]~~ shall be responsible for ensuring that the
5 electronic device manufacturer and its agents follow all
6 federal, state, and local regulations when collecting,
7 transporting, and recycling covered electronic devices ~~[or-~~
8 ~~covered televisions]~~, and adopt environmentally sound recycling
9 practices for the covered electronic devices ~~[or covered-~~
10 ~~televisions]."~~

11 SECTION 6. Section 339D-8, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **§339D-8 Enforcement.**

14 (a) The department may conduct audits and inspections to
15 determine compliance under this chapter. Except as provided in
16 subsection (c), the department and the attorney general shall be
17 empowered to enforce this chapter and take necessary action
18 against any electronic device ~~[or television manufacturer]~~ or
19 retailer for failure to comply with this chapter or rules
20 adopted thereunder.

21 (b) The attorney general may file suit in the name of the
22 State to enjoin an activity related to the sale of covered

1 electronic devices [~~or covered televisions~~] in violation of this
2 chapter.

3 (c) The department shall issue a warning notice to a
4 person for the person's first violation of this chapter. The
5 person shall comply with this chapter within sixty days of the
6 date the warning notice was issued or be subject to the
7 penalties provided by law or rule, including[~~r~~] but not limited
8 to[~~r~~] penalties set forth in subsections (d) through (g). A
9 retailer that receives a warning notice from the department for
10 a violation of section 339D-3(a) [~~or 339D-24(a)~~] shall submit
11 proof to the department, within sixty days from the date the
12 warning notice was issued, that its inventory of covered
13 electronic devices [~~or covered televisions~~] offered for sale is
14 in compliance with this chapter.

15 (d) Any retailer who sells or offers for sale an unlabeled
16 covered electronic device [~~or unlabeled covered television~~] in
17 violation of section 339D-3 [~~or 339D-24, respectively,~~] or any
18 electronic device [~~or television~~] manufacturer that fails to
19 comply with any provision of section 339D-4 [~~or 339D-23,~~
20 ~~respectively,~~] may be assessed a penalty of up to \$10,000 for
21 the first violation and up to \$25,000 for the second and each
22 subsequent violation, in addition to any additional penalties
23 required or imposed pursuant to this chapter.

1 (e) Except as provided in subsection (d), 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 (f) The department shall determine additional penalties
8 based on adverse impact to the environment, unfair competitive
9 advantage, and other considerations that the department deems
10 appropriate.

11 (g) If [~~a covered television~~] an electronic device
12 manufacturer fails to recycle its market share allocation, the
13 department shall impose a penalty of [~~50 cents~~] \$_____ per
14 pound for each pound not recycled."

15 SECTION 7. Section 339D-9, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) Notwithstanding subsection (a), the department shall
18 not have the authority to assess any fees, including an advanced
19 recycling fee, registration fee, or other fee, on consumers[~~,—~~
20 ~~television manufacturers, or retailers for recovery of covered~~
21 ~~televisions except those noted in sections [339D-4] and 339D-~~
22 ~~22]."~~

1 SECTION 8. Section 339D-11, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 (b) The department shall compile the information submitted
4 by ~~[covered television]~~ electronic device manufacturers and
5 issue a report to the legislature no later than April 1, 2012,
6 and annually each year thereafter."

7 SECTION 9. Section 339D-12, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§339D-12 Federal preemption.**

10 ~~[(a) Part II of this]~~ This chapter shall be deemed
11 repealed if a federal law or a combination of federal laws takes
12 effect that establishes a national program for the collection
13 and recycling of covered electronic devices that substantially
14 meets the intent of ~~[part II of]~~ this chapter, including the
15 creation of a financing mechanism for collection,
16 transportation, and recycling of all covered electronic devices
17 from covered entities in the United States.

18 ~~[(b) [Part IV] of this chapter shall be deemed repealed if~~
19 ~~a federal law or a combination of federal laws takes effect that~~
20 ~~establishes a national program for the recycling of covered~~
21 ~~televisions that substantially meets the intent of [part IV] of~~
22 ~~this chapter.]"~~

1 SECTION 10. Chapter 339D, part IV, Hawaii Revised
2 Statutes, is repealed.

3 SECTION 11. No later than December 31, 2013, the
4 department of health shall adopt rules, pursuant to chapter 91,
5 that authorize the recovery and recycling of cathode ray tubes
6 in Hawaii to safely further the objectives of chapter 339D,
7 Hawaii Revised Statutes.

8 SECTION 12. In codifying the new sections added by section
9 1 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

12 SECTION 13. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 14. This Act shall take effect upon its approval.

15
16

INTRODUCED BY: _____

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 12-187

Introduced: 07/18/12 By: STANLEY CHANG

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

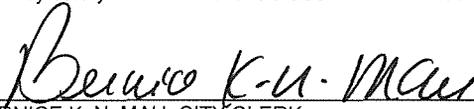
Title: RESOLUTION APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE A PROPOSAL RELATING TO ELECTRONIC WASTE RECYCLING.

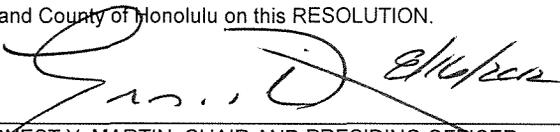
Links: [RES12-187](#)
[CR-253](#)

Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

EXECUTIVE MATTERS AND LEGAL AFFAIRS	07/24/12	CR-253 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.							
COUNCIL	08/15/12	CR-253 AND RESOLUTION 12-187 WERE ADOPTED.							
ANDERSON	A	BERG	Y	CACHOLA	Y	CHANG	Y	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER