

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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1

HOUSE BILL 1765

Short Title: Electronics Waste/Mgmt. Plans/Manf. Tax. (Public)

Sponsors: Representatives Hackney; Glazier, Harrison, Luebke, and Weiss.

Referred to: Environment and Natural Resources, if favorable, Finance.

May 12, 2005

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH A RECYCLING PROGRAM FOR CERTAIN
2 ELECTRONIC DEVICES, TO REQUIRE MANUFACTURERS OF
3 ELECTRONIC DEVICES TO EITHER (1) DEVELOP AND IMPLEMENT
4 PRODUCT MANAGEMENT PLANS FOR THE PROPER REUSE OR
5 RECYCLING OF DISCARDED ELECTRONIC DEVICES AND TO PAY AN
6 ANNUAL PROGRAM FEE OR (2) TO PAY A TAX ON THE SALE OF
7 ELECTRONIC DEVICES SOLD IN THE STATE IN ORDER TO FUND THE
8 PROGRAM, AND TO PROVIDE LOCAL GOVERNMENTS WITH FUNDS TO
9 ENABLE THEM TO RECYCLE ELECTRONIC DEVICES.
10

11 Whereas, the leaching into groundwater of lead from cathode ray tubes and
12 other forms of electronic waste in landfills is a major concern for the future protection
13 of human health and the environment; and

14 Whereas, the electronics waste stream is growing rapidly in volume and
15 complexity and may account for as much as 70% of the toxic heavy metals found in
16 solid waste landfills; and

17 Whereas, local government-operated programs are an efficient way to divert
18 electronics waste from disposal and to provide recycling services to citizens across the
19 State; and

20 Whereas, the development of local programs is hindered by the high costs of
21 handling collected cathode ray tubes and other electronics waste; and

22 Whereas, no system currently exists, either provided by manufacturers of
23 electronic devices, retailers, or others, to adequately serve North Carolinians and to
24 divert large quantities of electronics waste from disposal in landfills; and

25 Whereas, it is already illegal for businesses to dispose of cathode ray tubes in
26 landfills in North Carolina, but small- and medium-sized businesses lack practical
27 electronics recycling options; and

28 Whereas, the recycling of electronic wastes recovers valuable materials for
29 reuse and will create jobs and tax base in North Carolina; and

1 Whereas, the responsibility for the environmentally sound management and
2 product stewardship of end-of-life electronic devices ought to be substantially borne by
3 the manufacturers of electronic devices; Now, therefore,
4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 105 of the General Statutes is amended by adding a
6 new Article to read:

7 "Article 5G.

8 "Electronics Recycling Tax.

9 "§ 105-187.60. Definitions.

10 (a) The definitions set out in G.S. 105-164.3 apply to this Article, except that the
11 term 'sale' does not include lease or rental.

12 (b) The definitions set out in G.S. 130A-309.91 apply to this Article.

13 "§ 105-187.61. Tax imposed.

14 A privilege tax is imposed on a manufacturer of electronic devices who does not
15 comply with the provisions of G.S. 130A-309.92 for electronic devices that are sold by
16 the manufacturer in this State. An excise tax is imposed on a manufacturer of electronic
17 devices who does not comply with the provisions of G.S. 130A-309.92 for electronic
18 devices purchased outside the State for storage, use, or consumption in this State. The
19 rate of the privilege tax and the excise tax is one percent (1%) of the retail cost of the
20 electronic devices. These taxes are in addition to all other taxes.

21 "§ 105-187.62. Administration.

22 The privilege tax this Article imposes on a manufacturer of electronic devices is an
23 additional State sales tax, and the excise tax this Article imposes on the storage, use, or
24 consumption of a new electronic device in this State is an additional State use tax.
25 Except as otherwise provided in this Article, these taxes shall be collected and
26 administered in the same manner as the State sales and use taxes imposed by Article 5
27 of this Chapter. As under Article 5 of this Chapter, the additional State sales tax paid
28 when a new electronic device is sold at retail is a credit against the additional State use
29 tax imposed on the storage, use, or consumption of the same electronic device.

30 "§ 105-187.63. Exemptions and refunds.

31 Except for the exemption provided in G.S. 105-164.13(17), the exemptions in
32 G.S. 105-164.13 do not apply to the taxes imposed by this Article. The refunds allowed
33 in G.S. 105-164.14 do not apply to the taxes imposed by this Article.

34 "§ 105-187.64. Use of tax proceeds.

35 The Secretary shall distribute the taxes collected under this Article, less the
36 Department of Revenue's allowance for administrative expenses, in accordance with this
37 section. The Secretary may retain the Department's cost of collection, not to exceed two
38 hundred twenty-five thousand dollars (\$225,000) a year, as reimbursement to the
39 Department. Each quarter, the Secretary shall credit the net tax proceeds to the
40 Electronics Recycling Account.

41 "§§ 105-187.65 through 105-187.69: Reserved for future codification purposes."

42 **SECTION 2.** Article 9 of Chapter 130A of the General Statutes is amended
43 by adding a new Part to read:

44 "Part 2E. Electronics Recycling Act of 2005.

1 **"§ 130A-309.90. Title.**

2 This Part may be cited as the 'North Carolina Electronics Recycling Act of 2005'.

3 **"§ 130A-309.91. Definitions.**

4 Unless a different meaning is required by the context, the following definitions shall
5 apply throughout this Part:

6 (1) Electronic device. — A computer central processing unit whether sold
7 alone or with accessories; computer monitor; laptop computer; and
8 television with a video display that has a viewable area greater than
9 nine inches when measured diagonally.

10 (2) Manufacturer. — Any person, firm, association, partnership,
11 corporation, governmental entity, organization, combination, or joint
12 venture that is the last person in the production or assembly process of
13 an electronic device that is sold in this State.

14 **"§ 130A-309.92. Management of electronic devices; product management plans.**

15 (a) A manufacturer of electronic devices sold within this State shall develop a
16 product management plan prepared pursuant to this section and submit the plan to the
17 Department for review and approval. Manufacturers of electronic devices may develop
18 and submit a plan either individually or as part of a group of manufacturers.
19 Manufacturers of electronic devices who do not comply with the requirements of this
20 section must pay the privilege or excise tax as provided by G.S. 105-187.61 and submit
21 a notice to the Department of their intention to pay the tax in lieu of implementation of a
22 product management plan.

23 (b) No electronic device shall be sold in this State unless the device is labeled
24 with the following information or is accompanied by written material to be provided to
25 the user of the device that contains the following information: (i) a notice of the
26 prohibition on the disposal of electronic devices under G.S. 130A-309.10(f)(9); and (ii)
27 a toll-free telephone number or the address of an Internet site so that consumers of
28 electronic devices can obtain information and instructions about properly discarding the
29 electronic devices through the manufacturer's program.

30 (c) The product management plan prepared and submitted pursuant to this
31 section shall include at a minimum all of the following:

32 (1) Provisions under which the manufacturer finances the collection;
33 transportation; and reuse, recycling, treatment, or disposal of electronic
34 devices that are discarded in this State in a manner that is consistent
35 with all requirements of State law and that is designed to achieve the
36 following recovery rates:

37 a. Within three years after the implementation of the plan, a
38 number of electronic devices equal to at least fifty percent
39 (50%) of the number of the manufacturer's electronic devices
40 sold at retail annually in this State shall be collected for reuse or
41 recycling.

42 b. Within six years after the implementation of the plan, a number
43 of electronic devices equal to at least seventy-five percent
44 (75%) of the number of the manufacturer's electronic devices

- 1 sold at retail annually in this State shall be collected for reuse or
2 recycling.
- 3 c. Within 10 years after the implementation of the plan, a number
4 of electronic devices equal to at least ninety percent (90%) of
5 the number of the manufacturer's electronic devices sold at
6 retail annually in this State shall be collected for reuse or
7 recycling.
- 8 (2) Provisions for meeting the labeling requirements under subsection (b)
9 of this section.
- 10 (3) Provisions for consumer education that include educational activities
11 designed to ensure that consumers of electronic devices are informed
12 of all of the following:
- 13 a. The prohibition on the disposal of electronic devices under
14 G.S. 130A-309.10(f)(9).
- 15 b. The dangers of improper disposal of electronic devices.
- 16 c. The available options for properly discarding electronic devices
17 including those under the manufacturer's program.
- 18 d. The responsibility of consumers of electronic devices to ensure
19 the reuse, recycling, or proper disposal of electronic devices.
- 20 (4) Provisions for providing information to persons who recycle or
21 disassemble the manufacturer's electronic devices that are designed to
22 ensure that the recycling or disassembly is conducted in a manner that
23 protects worker health and safety and that is environmentally sound.
- 24 (5) Provisions that ensure all of the following:
- 25 a. That an electronic device collected under the plan that is not in
26 working order is not exported to any country that is not a
27 member of the Organization for Economic Cooperation and
28 Development.
- 29 b. That an electronic device collected under the plan that is in
30 working order is not exported to any country that is not a
31 member of the Organization for Economic Cooperation and
32 Development unless the manufacturer or a person participating
33 in the manufacturer's program certifies to the Department that
34 the electronic waste is in working order and is destined for
35 direct reuse.
- 36 (6) Provisions to ensure that return of electronic devices by consumers for
37 recycling or reuse is at least as convenient as the purchase and delivery
38 of new electronic devices by consumers through either:
- 39 a. Return of an electronic device to a location where the device is
40 sold for recycling, at no cost to the consumer.
- 41 b. Processes for mail or shipment of an electronic device to a
42 recycler, at no cost to the consumer.
- 43 (d) A manufacturer who develops and implements a product management plan
44 pursuant to this section shall maintain records of:

- 1 (1) The number of electronic devices that were sold in the State in the
2 previous year.
- 3 (2) The number and weight of electronic devices collected in the State in
4 the previous year for reuse and recycling.
- 5 (3) The weight and description of collected material that is reused and
6 recycled from recovered electronic devices.
- 7 (4) The capture rate of electronic devices for reuse and recycling based on
8 State sales.

9 (e) Each manufacturer shall provide to the Department an annual report on its
10 product management plan. The report shall include, at a minimum:

- 11 (1) The information required by subsection (d) of this section.
- 12 (2) Information on the end markets for major constituents of the recovered
13 electronic devices.
- 14 (3) Other information the Department requires.

15 (f) A manufacturer who implements a product management plan under this
16 section shall pay an annual program fee of twenty thousand dollars (\$20,000) to the
17 Department to cover the Department's costs of administering this section. The
18 Department shall credit the fee proceeds to the Electronics Recycling Account.

19 (g) The Department shall review a product management plan within 120 days
20 after receiving the plan. The Department may approve or disapprove the entire plan or
21 may approve part of the plan and disapprove the remainder of the plan. If the
22 Department approves the plan in its entirety, the manufacturer shall begin
23 implementation of the plan within 30 days unless the Department approves a later
24 implementation date. If the Department disapproves the plan in its entirety, the
25 Department shall notify the manufacturer of the reasons for the disapproval. The
26 manufacturer shall submit a revised product management plan within 30 days. If the
27 Department approves a product management plan in part, the manufacturer shall
28 implement the approved parts of the product management plan within 30 days unless
29 the Department approves a later implementation date and shall submit a revision of
30 those parts of the plan that are disapproved within 30 days. Any part of a product
31 management plan that is not approved or disapproved within 120 days shall be deemed
32 approved, and the manufacturer shall begin implementation within 30 days. A producer
33 shall fully implement its plan no more than 12 months after the Department approves
34 the plan.

35 (h) The Department may review an approved product management plan and
36 recommend or require the manufacturer to modify the plan at anytime upon finding that
37 the approved product management plan as implemented no longer meets the
38 requirements of this Part.

39 **"§ 130A-309.93. Local governments; electronics recycling programs.**

40 (a) A unit of local government that implements an electronics recycling program
41 as a part of its solid waste management plan adopted pursuant to G.S. 130A-309.09A
42 shall be eligible to receive reimbursement from the Electronics Recycling Account. The
43 amount of the reimbursement shall be the amount equal to ten dollars (\$10.00) for each
44 electronic device recycled by the unit of local government for that quarter. The

1 Department shall reimburse a unit of local government only after receiving a statement
2 certified by the county finance officer that includes the number of electronic devices
3 recycled by the unit of local government for that quarter. A unit of local government
4 that receives reimbursement from the Electronics Recycling Account shall not charge a
5 fee for the recycling of electronic devices. A unit of local government may contract with
6 another unit of local government or a private entity in accordance with Article 15 of
7 Chapter 153A of the General Statutes to provide for the recycling of discarded
8 electronics. A contracting party that receives reimbursement from the Electronics
9 Recycling Account shall not charge a fee for the recycling of electronic devices under
10 that contract.

11 (b) Reimbursements to units of local government under this section shall be paid
12 only from funds in the Electronics Recycling Account. This section shall not be
13 construed to obligate the General Assembly to appropriate funds for reimbursements.

14 **"§ 130A-309.94. Local governments; use of reimbursements from Electronics**
15 **Recycling Account.**

16 A unit of local government may use reimbursements from the Electronics Recycling
17 Account only to offset any of the following:

- 18 (1) Collection and transportation of discarded electronic devices.
- 19 (2) Recycling processing fees.
- 20 (3) Costs of educating citizens about its electronics recycling program.

21 **"§ 130A-309.95. Electronics Recycling Account.**

22 (a) The Electronics Recycling Account is established within the Department. The
23 Account consists of revenue credited to the Account from the proceeds of the
24 electronics recycling tax imposed by Article 5G of Chapter 105 of the General Statutes
25 and the annual program fee imposed by 130A-309.92(f).

26 (b) Funds in the Account shall be allocated and used as follows:

- 27 (1) Ninety percent (90%) for reimbursement of units of local government
28 as provided in G.S. 130A-309.93.
- 29 (2) Six percent (6%) for supplemental grant funding to units of local
30 government to help initiate local programs, enhance existing local
31 electronics recycling services, and public education programs on the
32 environmental benefits of electronics recycling.
- 33 (3) Four percent (4%) to the Department for the administration of the
34 program pursuant to G.S. 130A-309.97.

35 **"§ 130A-309.96. Effect of local ordinance.**

36 This Part preempts any local ordinance regarding the management of discarded
37 electronic devices to the extent, and only to the extent, that the local ordinance is
38 inconsistent with this Part or the rules adopted pursuant to this Part.

39 **"§ 130A-309.97. Duties of Department.**

40 (a) Public Education. – The Department shall develop and implement a program
41 to educate the public on the environmental benefits of electronics recycling. This public
42 education effort shall include point-of-sale education.

43 (b) Local Government Assistance. – The Department shall provide assistance to
44 units of local government developing electronics recycling programs. As part of this

1 assistance, the Department shall assist with the coordination of regional recovery efforts
2 for electronics.

3 (c) Supplemental Grant Program. – The Department shall develop and implement
4 a supplemental grant program, utilizing the funds allocated pursuant to
5 G.S. 130A-309.95(b)(2), to encourage the establishment of electronics waste recycling
6 programs and to enhance existing programs.

7 (d) Electronics Recycling Processor Certification. – The Department shall
8 establish criteria for the certification of electronics recycling processors and shall
9 implement a program to certify processors. This criteria shall require electronics
10 recycling processors to recycle electronic devices in compliance with all applicable laws
11 for the protection of the environment. This criteria shall favor the recycling of electronic
12 devices within the United States.

13 (e) Certification and Approval of Manufacturer's Product Management Plans. –
14 In accordance with G.S. 130A-309.92, the Department shall certify and approve a
15 product management plan submitted by a manufacturer of electronic devices.

16 **"§ 130A-309.98. Annual report.**

17 The Department shall include in the report to be delivered to the Environmental
18 Review Commission on or before 15 January of each year pursuant to
19 G.S. 130A-309.06(c) a description of the management of discarded electronic devices in
20 the State for the fiscal year ending the preceding 30 June. The description of the
21 management of electronic devices shall include all of the following information:

- 22 (1) An evaluation of the implementation of the Electronics Recycling Act
23 of 2005.
- 24 (2) The amount of taxes collected and distributed under G.S. 105-187.61
25 during the period covered by the report.
- 26 (3) The amount of fees collected under G.S. 130A-309.92(f) during the
27 period covered by the report.
- 28 (4) The beginning and ending balances of the Electronics Recycling
29 Account for the period covered by the report and a list of
30 reimbursements made from the Account for the period.
- 31 (5) Any other information the Department considers helpful in
32 understanding the problem of managing electronics waste.

33 **"§§ 130A-309.99:** Reserved for future codification purposes."

34 **SECTION 3.** G.S. 130A-309.06(c) reads as rewritten:

35 "(c) The Department shall report to the Environmental Review Commission on or
36 before 15 January of each year on the status of solid waste management efforts in the
37 State. The report shall include:

38 ...

- 39 (14) A description of the management of electronic waste in the State, as
40 required by G.S. 130A-309.98."

41 **SECTION 4.** G.S. 130A-309.93, as enacted by Section 2 of this act, reads as
42 rewritten:

43 **"§ 130A-309.93. Local governments; electronics recycling programs.**

1 A unit of local government that contracts with a recycling processor certified by the
2 Department pursuant to G.S. 130A-309.97(d) and that implements an electronics
3 recycling program as a part of its solid waste management plan adopted pursuant to
4 G.S. 130A-309.09A shall be eligible to receive reimbursement from the Electronics
5 Recycling Account. The amount of the reimbursement shall be the amount equal to ten
6 dollars (\$10.00) for each electronic device recycled by the unit of local government for
7 that quarter. The Department shall reimburse a unit of local government only after
8 receiving a statement certified by the county finance officer that includes the number of
9 electronic devices recycled by the unit of local government for that quarter. A unit of
10 local government that receives reimbursement from the Electronics Recycling Account
11 shall not charge a fee for the recycling of electronic devices. A unit of local government
12 may contract with another unit of local government or a private entity in accordance
13 with Article 15 of Chapter 153A of the General Statutes to provide for the recycling of
14 discarded electronics. A contracting party that receives reimbursement from the
15 Electronics Recycling Account shall not charge a fee for the recycling of electronic
16 devices under that contract."

17 **SECTION 5.** G.S. 130A-309.10(f) reads as rewritten:

18 "(f) No person shall knowingly dispose of any of the following solid wastes in
19 landfills:

- 20 (1) Repealed by Session Laws 1991, c. 375, s. 1.
- 21 (2) Used oil.
- 22 (3) Yard trash, except in landfills approved for the disposal of yard trash
23 under rules adopted by the Commission. Yard trash that is source
24 separated from solid waste may be accepted at a solid waste disposal
25 area where the area provides and maintains separate yard trash
26 composting facilities.
- 27 (4) White goods.
- 28 (5) Antifreeze (ethylene glycol).
- 29 (6) Aluminum cans.
- 30 (7) Whole scrap tires, as provided in G.S. 130A-309.58(b). The
31 prohibition against landfilling whole tires applies to all whole
32 pneumatic rubber coverings, but does not apply to whole solid rubber
33 coverings.
- 34 (8) Lead-acid batteries, as provided in G.S. 130A-309.70.
- 35 (9) Electronic devices as defined in G.S. 130A-309.91."

36 **SECTION 6.** G.S. 130A-309.10(f1) reads as rewritten:

37 "(f1) No person shall knowingly dispose of any of the following solid wastes by
38 incineration in an incinerator for which a permit is required under this Article:

- 39 (1) Antifreeze (ethylene glycol) used solely in motor vehicles.
- 40 (2) Aluminum cans.
- 41 (3) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.
- 42 (4) White goods.
- 43 (5) Lead-acid batteries, as provided in G.S. 130A-309.70.
- 44 (6) Electronic devices as defined in G.S. 130A-309.91."

1 **SECTION 7.** Sections 1, 2, 3, 5, 6, and 7 of this act become effective 1
2 January 2006. Section 4 of this act becomes effective 1 July 2009. The Department of
3 Environment and Natural Resources shall make reimbursements to units of local
4 government under Part 2E of Article 9 of Chapter 130A of the General Statutes, as
5 enacted by Section 2 of this act, beginning on 1 July 2006.