



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB1720

Introduced 2/25/2005, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

415 ILCS 5/ Tit. XVIII heading new
415 ILCS 5/59 new
415 ILCS 5/59.5 new
415 ILCS 5/59.10 new
415 ILCS 5/59.15 new
415 ILCS 5/59.20 new
415 ILCS 5/59.25 new
415 ILCS 5/59.30 new
415 ILCS 5/59.35 new
415 ILCS 5/59.40 new
415 ILCS 5/59.45 new
415 ILCS 5/59.50 new
415 ILCS 5/59.55 new
415 ILCS 5/59.60 new
415 ILCS 5/59.65 new
415 ILCS 5/59.70 new
30 ILCS 105/5.640 new

Amends the Environmental Protection Act. Prohibits certain methods of disposal for video display devices. Imposes fees on each person engaged in the business of selling new video display devices. Requires the seller to pay the fee to the Department of Revenue for deposit into the Video Display Device Recovery and Recycling Fund. Sets forth the purposes for which the moneys in the Fund may be used. Requires retailers to make quarter-annual tax returns to the Department of Revenue concerning the video display device fee. Sets forth procedures for administrative proceedings and hearings by the Department of Revenue concerning the collection of the fee and for judicial review of those decisions. Requires the Pollution Control Board to establish rules regarding the disposal of video display devices. Amends the State Finance Act to create the Video Display Device Recovery and Recycling Fund. Effective on January 1, 2006.

LRB094 09384 RSP 39630 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning environmental protection.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 adding Title XVIII as follows:

6 (415 ILCS 5/ Tit. XVIII heading new)

7 TITLE XVIII. VIDEO DISPLAY DEVICE RECOVERY AND RECYCLING

8 (415 ILCS 5/59 new)

9 Sec. 59. Findings and intent.

10 (a) The General Assembly finds:

11 (1) That the management of disposed of or discarded
12 video display devices is a rapidly growing waste problem;

13 (2) That video display devices contain toxic
14 substances that can pose a threat to public health and
15 welfare or the environment if released; and

16 (3) That the State and local governments have neither
17 the existing infrastructure nor the funds necessary to
18 properly manage disposed of or discarded video display
19 devices.

20 (b) The intent of this Title is to ensure that disposed of
21 or discarded video display devices are managed in a way that
22 protects public health and welfare and the environment.

23 (415 ILCS 5/59.5 new)

24 Sec. 59.5. Definitions. As used in this Title:

25 "Fund" means the Video Display Device Recovery and
26 Recycling Fund.

27 "Recycling" means, for the purposes of this Title, any
28 process by which materials that are disposed of or discarded,
29 or would otherwise be disposed of or discarded, are collected,
30 separated, or processed and returned to the economic mainstream

1 in the form of raw materials or products.

2 "Sale at retail" means sale at retail as defined in the
3 Retailers' Occupation Tax Act (35 ILCS/120).

4 "Video display device" means an electronic video display
5 device, including, without limitation, a cathode ray tube or
6 flat panel screen with a screen size greater than 4 inches in
7 size measured diagonally. "Video display device" includes, but
8 is not limited to, televisions, computer monitors, and laptop
9 computers with a video display. "Video display device" does not
10 include an automobile or commercial or industrial equipment,
11 other than a television, computer monitor, or laptop computer
12 with a video display, that contains a video display device as
13 one of its components (such as commercial medical equipment
14 containing a cathode ray tube or flat panel screen).

15 "Video display device manufacturer" means any person that
16 produces a video display device or, in the case of a
17 multi-component video display device, the last person to
18 produce or assemble the video display device. If the final
19 production or assembly of a video display device occurs in a
20 foreign country, "video display device manufacturer" means the
21 importer or domestic distributor of the video display device.

22 (415 ILCS 5/59.10 new)

23 Sec. 59.10. Prohibited actions.

24 (a) No person may knowingly cause or allow the burning of a
25 video display device on or after the effective date of this
26 amendatory Act of the 94th General Assembly.

27 (b) No person may knowingly cause or allow the mixing of a
28 video display device with municipal solid waste on or after
29 January 1, 2009.

30 (c) No person may knowingly cause or allow the disposal of
31 a video display device in any municipal solid waste landfill
32 unit on or after January 1, 2009.

33 (415 ILCS 5/59.15 new)

34 Sec. 59.15. Video Display Device Recovery and Recycling

1 Fund.

2 (a) There is created in the State treasury a special fund
3 to be known as the Video Display Device Recovery and Recycling
4 Fund. All fees collected under this Title and all penalties or
5 punitive damages for violations of this Title must be deposited
6 into the Fund. In addition, the Fund shall include other moneys
7 made available from any source for deposit into the Fund.

8 (b) Subject to appropriation, moneys up to an amount of
9 \$200,000 per fiscal year from the Fund shall be available to
10 the Department of Revenue for its activities relating to this
11 Title.

12 (c) Subject to appropriation, moneys in excess of \$200,000
13 per fiscal year from the Fund shall be used as follows:

14 (1) Except as provided in subsection (c)(2) of this
15 Section, all moneys shall be available to the Agency for
16 the following:

17 (A) The collection, recycling, or disposal video
18 display devices;

19 (B) To provide financial assistance for video
20 display device collection, recycling, and disposal
21 projects sponsored by local government or
22 not-for-profit organizations.

23 (C) For the performance of inspection,
24 investigation, and enforcement activities at sites
25 where video display devices have been open-dumped or
26 otherwise disposed of in violation of this Act;

27 (D) To provide financial assistance to units of
28 local governments for the performance of inspection,
29 investigation, and enforcement activities under
30 subsection (r) of Section 4 of this Act at sites where
31 video display devices have been open-dumped or
32 otherwise disposed of in violation of this Act;

33 (E) To undertake preventive, corrective, and
34 removal actions at sites where video display devices
35 have been open-dumped or otherwise disposed of in
36 violation of this Act and to recover costs for those

1 actions;

2 (F) For the purposes of consumer education about
3 video display device recycling; and

4 (G) For the cost of fee collection and
5 administration relating to video display devices, and
6 to accomplish any other purposes authorized under this
7 Act and implementing regulations.

8 (2) Until January 1, 2009, 30% of the moneys shall be
9 available to the Department of Commerce and Economic
10 Opportunity for the purposes of assisting in the
11 development of markets for the reuse and recycling of video
12 display devices.

13 (d) Any moneys appropriated from the Video Display Device
14 Recovery and Recycling Fund, but not obligated, shall revert to
15 the Fund.

16 (415 ILCS 5/59.20 new)

17 Sec. 59.20. Imposition of fee.

18 (a) Beginning January 1, 2006, the following fees are
19 imposed upon each person engaged in the business of selling
20 video display devices at retail:

21 (1) \$6 for each new video display device sold at retail
22 with a screen size of less than 15 inches measured
23 diagonally;

24 (2) \$8 for each new video display device sold at retail
25 with a screen size equal to or greater than 15 inches but
26 less than 35 inches measured diagonally; and

27 (3) \$10 for each new video display device sold at
28 retail with a screen size equal to or greater than 35
29 inches measured diagonally.

30 (b) The fee imposed under subsection (a) of this Section
31 shall not be stated as a distinct item separate and apart from
32 the selling price of the video display device and shall
33 constitute a debt owed by the retailer to the State of
34 Illinois.

1 (415 ILCS 5/59.25 new)

2 Sec. 59.25. Returns by retailer.

3 (a) Each person engaged in the business of selling video
4 display devices at retail in this State shall make a return to
5 the Department of Revenue on a quarter-annual basis, with the
6 return for January, February, and March of a given year being
7 due by April 30 of that year; with the return for April, May,
8 and June of a given year being due by July 31 of that year; with
9 the return for July, August, and September of a given year
10 being due by October 31 of that year; and with the return for
11 October, November, and December of a given year being due by
12 January 31 of the following year. Each return made to the
13 Department of Revenue must state:

14 (1) The name of the retailer;

15 (2) The address of the retailer's principal place of
16 business, and the address of the principal place of
17 business (if that is a different address) from which the
18 retailer engages in the business of making retail sales of
19 video display devices;

20 (3) The total number of video display devices in each
21 category identified in subsection (a) of Section 59.20 of
22 this Act sold at retail for the preceding calendar quarter;

23 (4) The amount of fees due; and

24 (5) Any other reasonable information that the
25 Department of Revenue requires.

26 (b) Notwithstanding any other provision of this Act
27 concerning the time within which a retailer may file his or her
28 return, if any retailer who ceases to engage in the retail sale
29 of video display devices, the retailer must file a final return
30 under this Act with the Department of Revenue not more than one
31 month after discontinuing that business.

32 (c) At the time when any return of any retailer is due to
33 be filed with the Department of Revenue, the retailer shall
34 also remit to the Department of Revenue the fee imposed under
35 Section 59.20 of this Act for sales at retail occurring in the
36 quarter for which the return is due.

1 (415 ILCS 5/59.30 new)

2 Sec. 59.30. Application of Retailers' Occupation Tax
3 provisions. All the provisions of Sections 4, 5, 5a, 5b, 5c,
4 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, and 11 of
5 the Retailers' Occupation Tax Act, that are not inconsistent
6 with this Act, shall apply, as far as practicable, to the fee
7 imposed by subsection (a) of Section 59.20 of this Act to the
8 same extent as if those provisions were included herein.
9 References in the incorporated Sections of the Retailers'
10 Occupation Tax Act to retailers, to sellers, or to persons
11 engaged in the business of selling tangible personal property
12 mean retailers of video display devices.

13 (415 ILCS 5/59.35 new)

14 Sec. 59.35. Review under Administrative Review Law. The
15 circuit court of any county wherein a hearing is held shall
16 have the power to review all final administrative decisions of
17 the Department of Revenue in administering the fee imposed
18 under subsection (a) of Section 59.20 of this Act. If, however,
19 the administrative proceeding that is to be reviewed judicially
20 is a claim for refund proceeding commenced under this Act and
21 Section 2a of the State Officers and Employees Money
22 Disposition Act, then the circuit court having jurisdiction
23 over the action for judicial review under this Section and
24 under the Administrative Review Law shall be the same court
25 that entered the temporary restraining order or preliminary
26 injunction that is provided for in that Section 2a, and that
27 enables the claim proceeding to be processed and disposed of as
28 a claim for refund proceeding other than as a claim for credit
29 proceeding.

30 The provisions of the Administrative Review Law, and the
31 rules adopted pursuant thereto, apply to and govern all
32 proceedings for the judicial review of final administrative
33 decisions of the Department of Revenue under this Title. The
34 term "administrative decision" is defined as in Section 3-101

1 of the Code of Civil Procedure.

2 Service of summons issued in any action to review a final
3 administrative decision upon the Director or Assistant
4 Director of Revenue shall be service upon the Department of
5 Revenue. The Department of Revenue must certify the record of
6 its proceedings if the feepayer pays to it the sum of \$0.75 per
7 page of testimony taken before the Department of Revenue and
8 \$0.25 per page of all other matters contained in the record,
9 except that these charges may be waived if the Department of
10 Revenue is satisfied that the aggrieved party who cannot afford
11 to pay the charges.

12 (415 ILCS 5/59.40 new)

13 Sec. 59.40. Rules; notice; place of hearing; survival of
14 action. The Department of Revenue may adopt and enforce such
15 reasonable rules and regulations relating to the
16 administration and enforcement of the fee imposed by subsection
17 (a) of Section 59.20 of this Act as may be deemed expedient.

18 Whenever the Department of Revenue is required to provide
19 notice to a retailer under this Act, the notice may be
20 personally served or given by United States mail, addressed to
21 the retailer or feepayer concerned at his or her last known
22 address, and proof of the mailing is sufficient for the
23 purposes of this Title. In the case of a notice of hearing, the
24 notice must be mailed by United States certified or registered
25 mail not less than 7 days prior to the date fixed for the
26 hearing.

27 All hearings provided by the Department of Revenue under
28 this Title with respect to or concerning a feepayer having his
29 or her principal place of business in this State shall be held
30 in Cook County or in Sangamon County, whichever is nearest to
31 the location of the feepayer's principal place of business. If
32 the feepayer does not have his or her principal place of
33 business in this State, the hearing shall be held in Sangamon
34 County.

35 Whenever any proceeding provided by this Title has been

1 begun by the Department of Revenue or by a person subject
2 thereto and that person thereafter dies or becomes a person
3 under legal disability before the proceeding has been
4 concluded, the legal representative of the deceased person or
5 person under legal disability must notify the Department of
6 Revenue of the death or legal disability. The legal
7 representative, as such, shall then be substituted by the
8 Department of Revenue in place of and for the person. Within 20
9 days after notice to the legal representative of the time fixed
10 for that purpose, the proceeding may proceed in all respects
11 and with like effect as though the person had not died or
12 become a person under legal disability.

13 (415 ILCS 5/59.45 new)

14 Sec. 59.45. Administrative procedures. The Illinois
15 Administrative Procedure Act is hereby expressly adopted and
16 applies to all administrative rules and procedures of the
17 Department of Revenue under this Title, except that: (i)
18 paragraph (b) of Section 4 of the Illinois Administrative
19 Procedure Act does not apply to final orders, decisions and
20 opinions of the Department of Revenue; (ii) subparagraph (a) (2)
21 of Section 4 of the Illinois Administrative Procedure Act does
22 not apply to forms established by the Department of Revenue for
23 use under this Title; and (iii) the provisions of Section 13 of
24 the Illinois Administrative Procedure Act regarding proposals
25 for decision are excluded and not applicable to the Department
26 of Revenue under this Title.

27 (415 ILCS 5/59.50 new)

28 Sec. 59.50. Penalty for violation. Any retailer who fails
29 to make a return, or who makes a fraudulent return, or who
30 willfully violates any rule or regulation of the Department of
31 Revenue for the administration and enforcement of the fee
32 imposed by subsection (a) of Section 59.20 of this Act, is
33 guilty of a Class 4 felony.

1 (415 ILCS 5/59.55 new)

2 Sec. 59.55. Agency Report. No later than January 1, 2008,
3 the Agency must submit a report to the General Assembly on the
4 status of the Agency's Video Display Device Recovery and
5 Recycling Program. This report must include a summary of the
6 fees collected and deposited in the Video Display Device
7 Recovery and Recycling Fund and the Agency's expenditure of
8 moneys from the Fund, a recommendation on whether a
9 continuation or modification of the fee imposed by subsection
10 (a) of Section 59.20 of this Act is necessary, and information
11 on video display device collection events. The Agency must also
12 include a discussion of the status of any federal legislation
13 enacted regarding the collection, recycling, or disposal of
14 video display devices.

15 (415 ILCS 5/59.60 new)

16 Sec. 59.60. Rules.

17 (a) No later than January 1, 2008, the Agency, after
18 consultation with the advisory committee established in
19 Section 59.65 of this Act, shall propose to the Board rules
20 governing the collection and recycling of video display
21 devices.

22 (b) No later than one year after the receipt of regulations
23 proposed by the Agency under subsection (a) of this Section,
24 the Board must adopt, pursuant to Sections 27 and 28 of this
25 Act, rules consistent with the provisions of this Title. The
26 rules must, at a minimum, specify the amounts of video display
27 devices that video display device manufacturers must collect
28 and recycle, record keeping and reporting requirements, and
29 penalties for violations of the rules.

30 (c) In adopting rules under this Section, the Board may
31 impose different requirements for different categories of
32 video display devices and video display device manufacturers.

33 (d) Nothing in this Section shall be construed as limiting
34 the general authority of the Board to promulgate regulations
35 under Title VII of this Act.

1 (415 ILCS 5/59.65 new)

2 Sec. 59.65. Advisory Committee.

3 (a) There is established a Video Display Device Recovery
4 and Recycling Advisory Committee to provide consultation to the
5 Agency under subsection (a) of Section 59.60 of this Act. The
6 advisory committee shall consist of the following
7 representatives appointed by the Governor: 2 representatives
8 of video display device manufacturers; 2 representatives of
9 video display device recyclers, processors, or refurbishers; 2
10 representatives of local government; 2 representatives of
11 public interest or environmental organizations; one
12 representative of video display device retailers; one
13 representative of the waste management industry; and 2 at-large
14 members representing the general public. The Governor must
15 appoint representatives to the advisory committee no later than
16 March 1, 2006.

17 (b) Members of the advisory committee shall serve without
18 compensation.

19 (c) The advisory committee shall terminate upon the Board's
20 adoption of rules under subsection (b) of Section 59.60 of this
21 Act.

22 (415 ILCS 5/59.70 new)

23 Sec. 59.70. Severability. The provisions of this Title are
24 severable under Section 1.31 of the Statute on Statutes.

25 Section 10. The State Finance Act is amended by adding
26 Section 5.640 as follows:

27 (30 ILCS 105/5.640 new)

28 Sec. 5.640. The Video Display Device Recovery and Recycling
29 Fund.

30 Section 99. Effective date. This Act takes effect January
31 1, 2006.