



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4957

by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

New Act
415 ILCS 5/22.54 new

Creates the Electronic Scrap Recycling Act. Creates the Illinois Materials Management and Financing Commission to manage cost-efficient and environmentally sound State collection, transportation, and recycling of certain electronic devices. Contains provisions concerning a basic fee mechanism, restrictions on hazardous substances, fee reductions for certain manufacturers, self-recycling, retailer responsibilities, program operational standards, State government procurement, and relation to federal law. Amends the Environmental Protection Act concerning e-scrap in landfills. Contains other provisions. Effective immediately, except some provisions are operative beginning January 1, 2009.

LRB095 18659 RCE 44748 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

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

4 Section 1. Short title. This Act may be cited as the
5 Electronic Scrap Recycling Act.

6 Section 5. Purpose.

7 (1) The General Assembly finds:

8 (a) that discarded electronic devices, known as
9 E-scrap, is the fastest growing portion of materials found
10 as discards in the waste stream with 2,600,000 tons of
11 E-scrap generated in 2005, but only 13% of that recycled,
12 according to the United States Environmental Protection
13 Agency;

14 (b) that hazardous materials such as lead, mercury,
15 cadmium, hexavalent chromium and other chemicals are found
16 in many electronic devices and, if improperly managed, may
17 pose environmental risks at the products' end-of-life;

18 (c) that many electronic devices that become obsolete
19 for a given user can in fact be refurbished and redeployed
20 for reuse to a secondary user that can utilize the devices
21 to enhance educational and technological capabilities of
22 Illinois residents;

23 (d) that valuable commodities including steel, glass,

1 plastics, and precious metals can be successfully
2 recovered and recycled, thus conserving natural resources
3 and energy, as well as reducing air and water pollution,
4 and greenhouse gas emissions;

5 (e) that the State has adopted a hierarchy to manage
6 wastes which places reuse and recycling as the preferred
7 management strategy over incineration and landfill
8 disposal options;

9 (f) that the Illinois Recycling Economic Information
10 Study of 2001 estimates that the total economic impact of
11 establishing statewide recycling and reuse programs for
12 E-scrap may result in the creation of nearly 4,000 new jobs
13 and \$740 million in annual receipts;

14 (g) that the State-appointed Computer Equipment
15 Disposal and Recycling Commission issued a final report in
16 May 2006 recommending legislative, regulatory, or other
17 actions to properly address E-scrap management.

18 (2) It is the purpose of this Act to establish the Illinois
19 Materials Management and Financing Commission, a
20 not-for-profit public benefit corporation, to develop and
21 manage an environmentally sound statewide system for the
22 collection and recycling of electronic devices in accordance
23 with State policy.

24 Section 10. Definitions. When used in this Act, unless the
25 context clearly indicates otherwise, the following terms have

1 the meanings ascribed to them in this Section:

2 "Agency" means the Illinois Environmental Protection
3 Agency.

4 "Basel Convention" means the Basel Convention on the
5 Control of Transboundary Movements of Hazardous Wastes and
6 Their Disposal and is a global agreement ratified by over 100
7 member countries addressing the problems and challenges posed
8 by hazardous waste. It aims to minimize the generation of
9 hazardous wastes in terms of quantity and hazardousness, to
10 dispose of them as close to the source of generation as
11 possible, and to reduce the movement of hazardous wastes.

12 "Broker" is a person who engages in the buying, selling,
13 and trading of CEDs.

14 "Cathode ray tube" or "CRT" means a vacuum tube or picture
15 tube used to convert an electronic signal into a visual image
16 (e.g. a computer monitor).

17 "Cellular telephone" means a hand-held mobile
18 radiotelephone, normally equipped with a viewing screen less
19 than 4 inches when measured diagonally, for use in an area
20 divided into small sections, each with its own short-range
21 transmitter/receiver.

22 "Commission" means the Illinois Materials Management and
23 Financing Commission, as defined in Section 25 of this Act.

24 "Computer" means an electronic, magnetic, optical,
25 electrochemical, or other highspeed data processing device
26 performing logical, arithmetic, or storage functions, and may

1 include both a computer central processing unit and a monitor,
2 but does not include an automated typewriter, electronic
3 printer, portable hand-held calculator, portable digital
4 assistant (PDA), or other similar device.

5 "Computer peripheral" means a device that is external to
6 but connected with and controlled by a computer central
7 processing unit, such as a zip drive, scanner, cable, mouse,
8 keyboard or similar device.

9 "Covered electronic device or CED" means any computer,
10 portable computer, electronic printer, computer peripheral,
11 video display device, video display device peripheral, or
12 facsimile machine that has been used and discarded in this
13 State regardless of purchase location.

14 "Demanufacturing" means the process of separating CEDs
15 into metallic and non-metallic parts that can be recycled or
16 reused.

17 "Design for environment" means: (1) an environmental
18 manufacturing process that reduces the level of toxic materials
19 utilized in the manufacturing and production of a product and
20 (2) designing products that are easier to disassemble and
21 recycle.

22 "Dismantling" means the manual demanufacturing of CEDs to
23 reuse or recycle components and commodities contained therein.

24 "Downstream recycler" means a person that receives CEDs
25 from a recycler or broker for additional processing or
26 disposition.

1 "Electronic device" means an instrument that accomplishes
2 its purpose by controlling the flow of electrons through
3 inputs, processing, and outputs.

4 "E-scrap" is an informal name for electronic products at
5 the end of their useful life. The term is generally applied to
6 consumer and business electronic equipment and includes, but is
7 not limited to, computers and their associated peripheral
8 equipment, as well as televisions, video cassette recorders,
9 digital video disc players, stereos, copiers, facsimile
10 machines, and cellular phones.

11 "Manufacturer" means any person in business or no longer in
12 business but having a successor in interest, who, irrespective
13 of the selling technique used, including by means of distance
14 or remote sale:

15 (1) manufactures or has manufactured CEDs under its own
16 brand for sale in this State;

17 (2) manufactures or has manufactured CEDs for sale in
18 this State without affixing a brand;

19 (3) resells or has resold in this State CEDs produced
20 by other suppliers under its own brand or label; or

21 (4) manufactures or has manufactured a cobranded
22 product for sale in or import into this State that carries
23 the name of both the manufacturer and a retailer;

24 (5) imports or has imported a covered electronic
25 product in to the United States that is sold in or imported
26 into this State. However, if the imported covered

1 electronic device is manufactured by any person with a
2 presence in the United States meeting the criteria of
3 manufacturer under items (1) through (4) of this
4 subsection, that person is the manufacturer. For purposes
5 of this subsection, "presence" means any person that
6 performs activities conducted under the standards
7 established for interstate commerce under the commerce
8 clause of the United States Constitution; or

9 (6) sells at retail a covered electronic product
10 acquired from an importer that is the manufacturer as
11 described in item (5) of this subsection, and elects to
12 register in lieu of the importer as the manufacturer of
13 those products.

14 "Monitor" means a separate visual display component of a
15 computer, either sold separately or together with a computer
16 central processing unit box. A monitor is made up of: (i) a
17 cathode ray tube; liquid crystal display; gas plasma; digital
18 light processing; or other image projection technology greater
19 than 4 inches when measured diagonally; (ii) a case; (iii)
20 interior wires and circuitry; (iv) a cable to the central
21 processing unit; and (v) a power cord.

22 "New Entrant" means (1) a manufacturer of video display
23 devices, video display device peripherals, or facsimile
24 machines, that have been sold in the State for less than 10
25 years or (2) a manufacturer of computers, portable computers,
26 electronic printers, and computer peripherals that have been

1 sold in the State for less than 5 years. However, a
2 manufacturer of both video display devices and computers, or a
3 manufacturer of both video display devices and computer
4 monitors that is deemed a new entrant under either (1) or (2)
5 of this definition, but not both, is not considered a new
6 entrant.

7 "Orphan CEDs" means those CEDs that are returned for
8 recycling or reuse for which the manufacturer cannot be
9 identified or is no longer conducting business and has no
10 successor in interest.

11 "Person" means any individual, partnership, cooperative
12 enterprise, unit of local government, institution, corporation
13 or agency, or any other legal entity whatsoever which is
14 recognized by law as the subject of rights and duties.

15 "Portable computer" means a computer and video display
16 greater than 4 inches in size when measured diagonally that can
17 be carried as one unit by an individual (e.g. a laptop
18 computer).

19 "Processing" means the mechanical demanufacturing of CEDs
20 to recover various commodities contained therein.

21 "Recycler" means a person that engages in recycling of
22 CEDs.

23 "Recycling" means any process by which CEDs that would
24 otherwise be disposed of or discarded are collected, separated,
25 demanufactured, or processed and are returned to the economic
26 mainstream in the form of raw materials or products.

1 "Recycling facility" means all contiguous land,
2 structures, other appurtenances, and improvements used for
3 demanufacturing, dismantling, or processing of CEDs for
4 recycling or reuse. A recycling facility does not include a
5 location to refurbish CEDs.

6 "Refurbish" means a process by which non-functioning or
7 damaged electronic devices or products are returned to a
8 functioning state.

9 "Retailer" means a person who owns or operates a business
10 that sells new CEDs in this State by any means to an end user.

11 "Reuse" means the recovery or reapplication of a CED in a
12 manner that retains its original form or identity and does not
13 involve processes that significantly alter its original
14 condition or its intended purpose.

15 "Video display device" means an output surface having a
16 viewable area greater than 4 inches when measured diagonally
17 that displays moving graphical images or a visual
18 representation of image sequences or pictures, showing a number
19 of quickly changing images on a screen in fast succession to
20 create the illusion of motion, including, if applicable, a
21 device that is an integral part of the display that produces
22 the moving image on the screen. Displays typically use a CRT,
23 liquid crystal display, gas plasma, digital light processing,
24 or other image projection technology.

25 "Video display device peripherals" means a device that is
26 external to, but connected to, a video display device for the

1 purpose of viewing media such as video game consoles, video
2 cassette recorders/players, digital video disk players, or
3 similar devices.

4 Section 15. Scope. All households in this State and all
5 units of State government are covered by this Act. In addition,
6 any charity, school district, small business, or unit of
7 government located in this State that generates less than 1,000
8 kilograms of E-scrap in a calendar month is covered by this
9 Act.

10 Section 20. Scope of covered electronic devices (CEDs).

11 This Act does not cover any of the following:

12 (1) A CED that is a part of a motor vehicle or any
13 component part of a motor vehicle assembled by, or for, a
14 vehicle manufacturer or franchised dealer, including
15 replacement parts for use in a motor vehicle.

16 (2) A CED that is functionally or physically a part of
17 a larger piece of equipment designed and intended for use
18 in an industrial, commercial, agricultural, or medical
19 setting, including diagnostic, monitoring, or control
20 equipment.

21 (3) A CED that is contained within a clothes washer,
22 clothes dryer, refrigerator, refrigerator and freezer,
23 microwave oven, conventional oven or range, dishwasher,
24 room air conditioner, dehumidifier, water pump, sump pump,

1 or air purifier.

2 (4) Small consumer electronic devices including
3 wristwatches, timers and clocks; cellular telephones;
4 sonar and fish locators; radar detectors; thermometers;
5 hand-held calculators; levels, tape measures, stud
6 finders, and other electronic building supplies; garage
7 door openers; games; range finders; personal digital
8 assistants; electronic encoding audio data storage and
9 retrieval devices; and other similar devices.

10 The Commission shall, on an annual basis, review the
11 electronics marketplace and shall determine which, if any,
12 additional products shall be added to or deleted from the list
13 of CEDs defined in this Section. All proposed changes to the
14 list of CEDs must be approved in writing by the Agency.

15 Section 25. Recycling system management.

16 (a) The Illinois Materials Management and Financing
17 Commission is established as a public body corporate and
18 politic, constituting an instrumentality of the State
19 exercising essential governmental functions. The Commission
20 shall be solely responsible for managing a cost-efficient and
21 environmentally sound State collection, transportation, and
22 recycling system for CEDs. The Commission will be funded via
23 the fees described in Section 30 of this Act. The Commission
24 will be organized as follows:

25 (1) The Commission is governed by a 9-member board of

1 directors, which shall be appointed by January 1, 2009. The
2 members of the board of directors shall be appointed by the
3 Governor, with the advice and consent of the Senate. The
4 Governor shall designate one of his or her appointees as
5 the chair, who shall represent a recognized 501(c)(3)
6 environmental advocacy organization headquartered in
7 Illinois. Four members shall be appointed by the Governor
8 as follows: 2 from the electronics manufacturing industry,
9 one from Illinois' recycling industry, and one from
10 Illinois' retailers. Four additional members shall be
11 appointed by the Governor.

12 (2) The Department of Commerce and Economic
13 Opportunity will issue a report to the Commission board of
14 directors no later than January 31, 2009, recommending an
15 initial registration fee calculated to cover the
16 Commission's cost of operation in fiscal year 2010, to
17 begin July 1, 2009. The Commission board of directors shall
18 inform manufacturers of the fee no later than April 1,
19 2009, and it shall be due and payable to the Illinois
20 Department of Revenue by July 1, 2009.

21 (3) By July 1, 2009, the Illinois Department of Revenue
22 shall create a dedicated fund into which all fees remitted
23 under this Act are deposited. The Commission's cost of
24 operations will be appropriated annually by the General
25 Assembly from this fund.

26 (4) By September 1, 2008, the Agency must determine the

1 amount that shall be deposited with the State by new
2 entrants seeking to sell CEDs in the State. This deposit
3 shall be based on the probable cost of future recycling of
4 new entrants' CEDs, based on the best available market
5 share and cost-per-pound recycling data from the United
6 States, including data from other states. This deposit is
7 in addition to the registration fee described in item (3)
8 of this subsection, and shall be refunded with interest to
9 the new entrant when the new entrant's years of doing
10 business in the State exceed the thresholds defined in
11 Section 10.

12 (5) The board shall select from its membership such
13 other officers besides the chair as it deems appropriate.

14 (6) A majority of the board constitutes a quorum.

15 (7) The directors of the Department of Commerce and
16 Economic Opportunity and the Illinois Environmental
17 Protection Agency shall serve as non-voting ex officio
18 members. The State agency directors serving in ex officio
19 capacity may each designate an employee of their respective
20 departments to act on their behalf in all respects with
21 regard to any matter to come before the Commission. Ex
22 officio designations must be made in writing and
23 communicated to the chair of the Commission.

24 (8) By December 31, 2009, the Commission shall submit
25 to the General Assembly a business plan that:

26 (A) includes an organizational structure;

1 (B) outlines the Commission's projected
2 operational revenues and expenses for the 5 fiscal
3 years beginning July 1, 2010; and

4 (C) proposes changes, if any, to the registration
5 fee for all manufacturers calculated to cover the
6 Commission's cost of operation in the fiscal year
7 beginning July 1, 2010.

8 (D) Determine the amount that shall be deposited
9 with the State by new entrants seeking to sell CEDs in
10 the State. This deposit shall be based on the probable
11 cost of future recycling of new entrants' CEDs, based
12 on the best available market share and cost-per-pound
13 recycling data from the United States, including data
14 from other states. This deposit is in addition to the
15 registration fee described in item (3) of this
16 subsection, and shall be refunded with interest to the
17 new entrant when the new entrant's years of doing
18 business in the State exceeds the thresholds defined in
19 Section 10.

20 (9) Any member of the board may be removed for
21 misfeasance, malfeasance, or willful neglect of duty after
22 notice and a public hearing, unless the notice and hearing
23 are expressly waived in writing by the affected member.

24 (10) The Commission shall have the authority to
25 administer this Act, including the power to assess
26 penalties for non-compliance and to develop rules

1 implementing this Act.

2 The members of the board shall serve without compensation
3 but are entitled to reimbursement, solely from the funds
4 appropriated to the Commission, for expenses incurred in the
5 discharge of their duties under this Act.

6 (b) Specific responsibilities of the Commission shall be
7 to:

8 (1) Organize, administer, and ensure that electronics
9 collection opportunities are available throughout the
10 State and in such a manner as to be convenient, to the
11 maximum extent feasible, to all covered persons in the
12 State.

13 (2) Encourage the use of existing collection and
14 consolidation infrastructures for handling CEDs to the
15 extent that this infrastructure is accessible on a regular
16 and ongoing basis to Illinoisans, is cost effective, and
17 meets the environmentally sound management requirements
18 described in this Act. The Commission shall, through
19 contractual agreement, compensate for the collection and
20 recycling of CEDs, by recyclers and brokers meeting the
21 requirements of Section 60, whether by government,
22 for-profit corporations, non-profit corporations,
23 retailers, manufacturers, or any other party, for the
24 reasonable costs associated with these activities. These
25 activities shall be audited annually. In order to
26 strengthen the market for Illinois recycling companies,

1 the Commission shall not pay for costs associated with the
2 use of prison labor.

3 (3) Maintain a list of all manufacturers that have
4 registered with the State and post the list on an Internet
5 website. Two years after the effective date of this Act, no
6 manufacturer may sell a CED in Illinois unless the
7 manufacturer has registered with the State and is in
8 compliance with the provisions of this Act. Further,
9 beginning July 1, 2009, no manufacturer or retailer may
10 sell any CED in Illinois unless the manufacturer has
11 registered and the CED is labeled with the manufacturer's
12 brand, and that label is permanently affixed and is readily
13 visible.

14 (4) By January 1, 2010, set the cost per pound for
15 collection, transportation, and recycling of CEDs in order
16 to reasonably approximate market costs for these services,
17 which cost per pound is used to calculate the fee required
18 by Section 30 of this Act. Beginning July 1, 2011, and
19 annually thereafter, the Commission may adjust such cost
20 per pound in order to reasonably approximate market costs
21 for the collection, transportation, and recycling of CEDs.
22 Prior to setting or adjusting the cost per pound, the
23 Commission shall notify the public, including all
24 manufacturers registered under subsection (a) of Section
25 30 of this Act, of the proposed cost per pound and provide
26 a public comment period. By the May 1 prior to the program

1 year for which the revised cost per pound is to be used,
2 the Commission shall notify all registered manufacturers
3 of any adjustments to the cost per pound, as well as any
4 adjustments to the registration fee.

5 (5) Determine the return share for each program year
6 for each manufacturer by dividing the weight of CEDs
7 identified for each manufacturer by the total weight of
8 CEDs identified for all manufacturers. For the first
9 program year, beginning July 1, 2010, the return share of
10 CEDs identified for each manufacturer shall be based on the
11 best available CED public return share data from the United
12 States, including data from other states. For the second
13 and each subsequent program year, the return share of CEDs
14 identified for each manufacturer shall be based on the most
15 recent samplings of CEDs conducted in this State as
16 described in item (8) of this subsection, and sampling
17 conducted by manufacturers choosing the self-recycling
18 option as described in Section 45 of this Act.

19 (6) Determine the return share in weight for each
20 program year for each manufacturer for whom a return share
21 is determined under item (5) of this subsection by
22 multiplying the return share for each such manufacturer by
23 the total weight in pounds of CEDs, including orphan
24 devices, collected from covered entities the previous
25 program year. For the first program year, the total weight
26 in pounds of CEDs shall be based on the best available

1 public weight data from the United States, including data
2 from other states. For the second and each subsequent
3 program year, the total weight in pounds of CEDs shall be
4 based on the total weight of CEDs, including legacy and
5 orphan devices, as described in item (8) of this
6 subsection, and sampling conducted by manufacturers
7 choosing the self-recycling option as described in Section
8 45 of this Act.

9 (7) By January 1, 2010, the Commission shall provide
10 each manufacturer for whom a return share is determined
11 pursuant to item (5) of this subsection with its return
12 share and its return share in weight for the year beginning
13 July 1, 2010. Beginning on April 1, 2011 and by April 1 of
14 each year thereafter, the Commission shall provide each
15 manufacturer for whom a return share is determined pursuant
16 to item (5) of this subsection with its return share and
17 its return share in weight for the second and subsequent
18 program years.

19 (8) By March 15, 2011, and by March 15 of each year
20 thereafter:

21 (A) Complete an auditable, statistically
22 significant sampling of CEDs collected by the
23 Commission during the previous 12 months. The sampling
24 to be completed by March 15, 2011, shall be calculated
25 for the period beginning July 1, 2010. The sampling
26 information collected shall consist of a list of brands

1 of CEDs and the weight of CEDs that are identified for
2 each brand. The Commission's sampling shall be
3 conducted in accordance with a procedure established
4 by the Commission and may be conducted by a third-party
5 organization, including a recycler. The Commission
6 may, at its discretion, be present at the sampling and
7 may audit the methodology and the results of the
8 third-party organization. The costs associated with
9 the sampling shall be considered one of the
10 Commission's costs of doing business; and

11 (B) Determine the total weight of CEDs, including
12 orphan devices, collected by the Commission during the
13 previous 12 months. The total weight determination to
14 be completed by March 15, 2011, shall be calculated for
15 the period beginning July 1, 2010.

16 (9) Receive fees from manufacturers or their agents for
17 the sole purpose of fulfilling its responsibilities under
18 this Act.

19 (10) Organize and coordinate public outreach in
20 association with the primary education responsibility
21 charged to retailers, and any secondary education plan
22 established by manufacturers, recyclers, and the State.

23 (11) Beginning in 2011, convene on an annual or
24 biannual basis an Electronic Product Life-cycle and
25 Recycling E-Scrap Assembly, composed of manufacturers and
26 retailers of CEDs, participants in outreach, collection,

1 processing and disposal activities of the Commission,
2 including persons who have signed up for regular
3 communication, and members of the General Assembly and
4 local public bodies to review and prepare recommendations
5 on electronic product life-cycle goals and outcomes of the
6 Commission. The Assembly shall conduct separate reviews of
7 and make recommendations on the outreach and collection
8 processes, and the recycling and life-cycle management
9 processes, and shall be addressed by a nationally or
10 internationally recognized leader in electronic product or
11 environmental life-cycle management, with comments on such
12 State of Electronic Product Life-cycles in Illinois by the
13 public officials and others who are directors of the
14 Commission.

15 (12) Prepare a business plan every 3 years that
16 establishes collection and recycling goals for each
17 manufacturer based on current return share data and the
18 best available estimates of projected collection and
19 recycling activity.

20 (13) Identify any necessary State actions to expand the
21 collection opportunities to achieve the goals outlined in
22 item (12) of this subsection.

23 (14) Report to the Governor and the General Assembly at
24 least annually on the implementation of the system during
25 the previous program year. The report will also be posted
26 on the Commission's website. The report must include:

1 (A) A list of all parties participating in the
2 system whom the Commission has designated as approved
3 to receive payments, the amount of payments it has made
4 to those parties, and the purpose of those payments.

5 (B) The total number and weight of CEDs collected
6 in the State the previous year as reported to the
7 Commission.

8 (C) Progress toward achieving the overall annual
9 total recovery and recycling goals described in the
10 business plan.

11 (D) The total amount of fees collected.

12 (E) A summary of funds expended by category:

13 (i) Education

14 (ii) Administration

15 (iii) Collection

16 (iv) Transportation

17 (v) Recycling

18 (vi) Disposal

19 (vii) Other

20 (F) Any surplus funds carried forward.

21 (G) A complete listing of all collection sites and
22 the amount of material collected at each site.

23 (H) An evaluation of the effectiveness of the
24 education and outreach program.

25 (15) Be fully audited by the Auditor General of the
26 State at the end of each program year, with that audit

1 report submitted to the General Assembly.

2 (16) Maintain a website and toll-free number complete
3 with up-to-date listings of where consumers can bring CEDs
4 for recycling.

5 Section 30. Basic fee mechanism.

6 (a) Prior to July 1, 2009, all manufacturers shall register
7 with the Commission and pay to the Commission the initial
8 registration fee described in item (2) of subsection (a) of
9 Section 25 of this Act. Thereafter, if a manufacturer has not
10 previously filed a registration, the manufacturer shall file a
11 registration with the Commission prior to any offer for sale
12 for delivery in the State of the manufacturer's new CEDs. Any
13 manufacturer to whom the Commission provides notification of a
14 return share and return share in weight pursuant to item (7) of
15 subsection (b) of Section 25 of this Act and who has not
16 previously filed a registration shall file a registration with
17 the Commission within 30 days of receiving such notification.

18 (b) Each manufacturer who is registered shall submit an
19 annual renewal of the manufacturer's registration to the
20 Commission and pay to the department the registration fee
21 described in item (2) of subsection (a) of Section 25 of this
22 Act by July 1 of each program year.

23 (c) The registration and each renewal shall include a list
24 of all of the manufacturer's brands of CEDs and shall be
25 effective on the second day of the succeeding month after

1 receipt by the Commission of the registration or renewal.

2 (d) By July 1, 2010, a new entrant as of July 1, 2010
3 selling its CEDs in the State shall register with the
4 Commission, pay to the Commission the initial registration fee
5 described in item (2) of subsection (a) of Section 25 of this
6 Act, and deposit with the State the deposit described in item
7 (8)(D) of subsection (a) of Section 25 of this Act. Beginning
8 July 1, 2010, new manufacturers of CEDs, or manufacturers of
9 CEDs who have not previously sold their CEDs in the State, must
10 also comply with the requirements of this subsection (d).

11 (e) By September 1, 2011, each manufacturer to whom the
12 Commission provides, by January 1, 2010, a return share in
13 weight that is greater than zero shall:

14 (1) Submit an additional fee to the Commission based on
15 its return share in weight of CEDs for the program year
16 beginning July 1, 2010. The fee shall be calculated by
17 multiplying the manufacturer's return share in weight by
18 the cost per pound for collection, transportation, and
19 recycling of CEDs determined by the Commission pursuant to
20 item (4) of subsection (b) of Section 20 of this Act;

21 (2) Pursuant to Section 50 of this Act, file an annual
22 report with the Commission, including all elements of the
23 report as described in subsection (b) of Section 50,
24 demonstrating its collection and recycling of its return
25 share in weight; or

26 (3) Each manufacturer to whom the Commission provides,

1 by April 1, 2011, or by April 1 of any year thereafter, a
2 return share in weight that is greater than zero shall, by
3 July 1 of that year, comply with subparagraph (1) or (2) of
4 this subsection (d).

5 Section 35. Restrictions on hazardous substances.

6 (a) On and after January 1, 2010, no person shall sell or
7 offer for sale in this State, a CED if the device is prohibited
8 from being sold or offered for sale in the European Union on or
9 after its date of manufacture due to the concentration of one
10 or more heavy metals in the device exceeding its maximum
11 concentration value, as specified in the Commission of European
12 Communities' Decision of August 18, 2005, amending Directive
13 2002/95/EC (European Union document 2005/618/EC), or as
14 specified in a subsequent amendment to the Directive.

15 (1) This subsection (a) applies only to a CED that is
16 manufactured on or after January 1, 2010.

17 (2) This subsection (a) does not apply to a CED that is
18 sold or offered for sale in this State only for purposes of
19 resale or offering for resale to persons outside of this
20 State.

21 (3) This subsection (a) does not apply to a CED that
22 would be prohibited from sale or being offered for sale in
23 this State based solely on metals used to meet consumer,
24 health, or safety requirements of Underwriters
25 Laboratories, the federal government, or the State.

1 (b) In determining the concentrations of metals for
2 compliance with subsection (a) of this Section, the Agency
3 shall not consider any cadmium, chromium, lead, mercury, or any
4 component containing any of those metals, which has been
5 exempted by Directive 2002/95/EC, or by an amendment to the
6 Directive.

7 (c) In adopting regulations under this Section, the Agency
8 shall not require the manufacture or sale of an electronic
9 device that is different than, or otherwise not prohibited by,
10 the European Union under Directive 2002/95/EC, adopted by the
11 European Parliament and the Council of the European Union on
12 January 27, 2003.

13 (d) The Agency may not adopt any regulations under this
14 Section that impose any requirements or conditions that are in
15 addition to, or more stringent than, the requirements and
16 conditions expressly authorized by this Section. In complying
17 with this subsection (d), the Agency shall use, in addition to
18 any other information deemed relevant by the Agency, the
19 published decisions of the Technical Adaptation Committee and
20 European Union member states that interpret the requirements of
21 Directive 2002/95/EC.

22 Section 40. Fee reduction for manufacturers designing for
23 environment. Manufacturers may apply for a reduced fee based on
24 improvements to their CEDs that make the products easier to
25 recycle, less hazardous, or both. Within one year after the

1 effective date of this Act, the Commission, working with the
2 Agency, shall develop a minimum level of environmental design
3 for all CEDs being sold in the State. This minimum level of
4 design shall be based on scores from the Electronic Products
5 Environmental Assessment Tool, whose minimum criteria meets
6 the standards set forth in Section 35 of this Act. Thereafter,
7 on an annual basis, manufacturers may apply for a reduction in
8 the per-unit fee for a CED that will take effect the following
9 year. Manufacturers choosing the self-recycling option may
10 apply for a permanent reduction in the annual registration fee
11 that will take effect the following year. The application shall
12 be based on a design and production change that will go beyond
13 the minimum level of environmental design and significantly
14 improve the product's recyclability or reduce the health risk
15 posed by the materials in the unit, as judged exclusively by
16 the Commission, in consultation with the Agency. The fee
17 reduction shall be revoked if the Commission or the Agency
18 determines that the design or production modification leading
19 to the reduction has been reversed or materially altered to the
20 detriment of recyclability or hazardousness in a future year. A
21 fee reduction guide shall be developed by the Commission, in
22 consultation with the Agency, within one year after the
23 effective date of this Act.

24 Section 45. Self-recycling.

25 (a) Manufacturers may choose not to participate in the

1 State recycling system operated by the Commission and instead
2 operate their own program for the collection and recycling of
3 CEDs. To be eligible for the self-recycling option, a
4 manufacturer must not be a new entrant.

5 A manufacturer choosing to establish its own collection and
6 recycling program is required to submit an application to the
7 Commission every 3 years demonstrating its strategy to collect
8 and recycle a total weight of its return share in weight.
9 Manufacturers qualifying for the self-recycling option shall
10 not have a fee assessed on CEDs or be compelled to participate
11 in the Commission's program. A manufacturer applying for
12 self-recycling status may apply alone or as a group in
13 collaboration with other manufacturers.

14 A manufacturer's application shall include all of the
15 following elements:

16 (1) Description of the systems for the collection,
17 transporting, and processing of CEDs.

18 (2) Service providers for the collection,
19 transportation, and processing of CEDs.

20 (3) Names of recycling companies meeting the
21 requirements of Section 60 of this Act that are
22 headquartered in Illinois to which the manufacturer will
23 send its CEDs for processing (Illinois-based recycling
24 companies are preferred provided that the manufacturer
25 does not operate its own recycling plants elsewhere in the
26 United States).

1 (4) Description of accessibility of recycling service
2 to all citizens of the State.

3 (5) Descriptions of accounting and reporting systems
4 that will be employed to track progress toward meeting its
5 return share in weight.

6 (6) Timeline, including startup and implementation,
7 with associated progress milestones with anticipated
8 results.

9 (7) A public information campaign, complementary to,
10 and designed in conjunction with, the primary
11 retailer-driven campaign described in Section 65 of this
12 Act, to promote the recycling of electronic products and
13 proper end-of-life management of the products by the final
14 users.

15 The Commission shall count the collection of a single CED
16 as 2 CEDs by weight when that item is donated free of charge by
17 a manufacturer approved by the Commission to operate a
18 self-recycling program for reuse to the Illinois State Board of
19 Education, or to any not-for-profit corporation recognized
20 under Section 501(c)(3) of the Internal Revenue Code, whose
21 principal mission is to assist low-income children or families
22 living in Illinois. To qualify for the donation reuse credit
23 under this Section, manufacturers must ensure the delivery of
24 electronic equipment that: (a) is no older than 6 years old;
25 (b) is in full working condition with all component parts and
26 all necessary accessories; and (c) has been approved for

1 donation by the recipient in a writing specifying the
2 disposition of the donation.

3 (b) By August 1, 2011, and by August 1 of each subsequent
4 program year, a manufacturer qualifying for the self-recycling
5 option shall file an annual report with the Commission
6 including the following:

7 (1) Total weight of CEDs collected and recycled the
8 previous program year;

9 (2) The results of an auditable, statistically
10 significant sampling of CEDs collected by the manufacturer
11 or group of manufacturers during the previous program year.
12 The sampling information reported shall consist of a list
13 of brands of CEDs and the weight of CEDs that are
14 identified for each brand;

15 (3) The total weight of CEDs, including orphan devices,
16 collected by the manufacturer or group of manufacturers
17 during the previous program year and documentation
18 verifying collection and recycling of such devices;

19 (4) Total weight of eligible equipment donated for
20 reuse to eligible organizations; and

21 (5) An evaluation of the existing infrastructure to
22 fulfill the manufacturer's collection and recycling
23 responsibilities.

24 Section 50. Retailer responsibilities. Retailers shall be
25 the primary source of information about end-of-life options to

1 electronics consumers. As such, retailers shall be charged
2 with:

3 (1) posting any educational materials provided by the
4 Commission in publicly accessible areas of their stores;

5 (2) posting any educational materials provided by the
6 Commission on the primary Web page describing products for
7 sale either in stores or via the Internet; and

8 (3) training all direct sales employees, whether at
9 stores or available by telephone or Internet, to answer
10 consumer questions about end-of-life options.

11 If a manufacturer engages in any retail sales of its own
12 products, whether through the Internet, catalogs, or other
13 means, the manufacturer is responsible for fulfilling the
14 retailer responsibilities as defined in this Section.

15 The Commission shall on a periodic basis perform
16 unannounced audits on retailer locations, Websites, or both to
17 ensure that all information provided by the Commission has been
18 posted according to the requirements of this Section.

19 Section 60. Program operational standards. All recyclers
20 and brokers participating in the Commission's plan, or any
21 manufacturer qualifying for self-recycling as described in
22 Section 45 of this Act, must ensure that collection,
23 refurbishment, and recycling efforts are conducted in a manner
24 that is in compliance with all applicable federal, State, and
25 local laws, regulations, and ordinances, and must ensure that

1 CEDs are not exported for disposal in a manner that poses a
2 risk to the public health or the environment. Specifically,
3 recyclers and brokers shall:

4 (1) Be certified by either the International
5 Association of Electronics Recyclers or the Institute of
6 Scrap Recycling Industries.

7 (2) Guarantee that all data stored on CEDs designated
8 for reuse under Section 45 of this Act, or for export under
9 this Section, have been wiped following protocols defined
10 in DOD 5220.22-M. Furthermore, guarantee that any data on
11 CEDs intended for recycling will either be rendered
12 unrecoverable by the recycling process or have been wiped
13 following protocols defined in DOD 5220.22-M prior to the
14 recycling process. The Commission shall review these
15 protocols on an annual basis and adjust them if necessary.

16 (3) Consistent with the guidelines of the U.S.
17 Environmental Protection Agency Plug-in Partner campaign,
18 ensure compliance with any applicable requirements of the
19 United States, as well as applicable requirements of
20 importing and transit countries. Recyclers must be aware of
21 the Basel Convention, to which the United States has signed
22 but has not ratified. Nonetheless, recyclers, downstream
23 recyclers, and brokers must be knowledgeable of the Basel
24 Convention requirements that could affect them, as
25 implemented by the laws of importing and transit countries.
26 In addition, the importing and transit countries may have

1 other laws and regulations that could affect United States
2 exporters and their transactions. Until such time as the
3 United States becomes a party to the Basel Convention, no
4 country that is a party to the Basel Convention but not a
5 member of the Organization for Economic Cooperation and
6 Development may legally accept hazardous waste (and thus
7 CEDs because of the Basel Convention's definition of
8 hazardous waste) exported from the United States absent a
9 bilateral agreement between the governments under Article
10 11 of the Basel Convention.

11 (4) Prohibit CEDs to be sent to prisons for recycling
12 either directly or through intermediaries.

13 (5) Possess and maintain a documented Environmental
14 Health and Safety Management System and ensure that current
15 operations comply with the current Institute for Scrap
16 Recycling Industries, Inc. electronics recycling operating
17 practices policy manual. The Commission shall review this
18 manual on an annual basis for adequacy, and shall perform
19 announced or unannounced audits at its discretion.

20 (6) Commit to ensuring that the entire recycling chain,
21 including downstream recyclers, brokers, and recovery
22 operations such as smelters, are meeting all applicable
23 environmental and health regulations. In addition, every
24 effort shall be made to make use of only those facilities
25 (e.g. smelters) that provide the most efficient and least
26 polluting recovery services available globally.

1 (7) Agree to provide visible tracking of CEDs
2 throughout the product recycling chain. The tracking
3 information should show the final disposition of all
4 hazardous waste materials. If there is a concern about
5 trade secrets, an independent auditor acceptable to
6 parties concerned may be used to verify compliance.

7 Section 65. State government procurement. On and after
8 January 1, 2010, all units of State government shall fulfill at
9 least 95% of the unit of government's need for CEDs by
10 purchasing only those CEDs registered with the U.S. EPA's
11 Electronic Product Environmental Assessment Tool (EPEAT),
12 unless there is no registered EPEAT product matching the need.

13 Section 70. Relation to federal law. This Act is intended
14 to govern all aspects of the collection and recycling of CEDs
15 as those terms are defined in this Act. Upon the implementation
16 of a national program acceptable to the General Assembly to
17 collect, recycle, or both, CEDs, the provisions of this Act
18 shall sunset within the time frame determined by federal law.

19 Section 900. The Environmental Protection Act is amended by
20 adding Section 22.54 as follows:

21 (415 ILCS 5/22.54 new)

22 Sec. 22.54. E-scrap. Three years after the effective date

1 of the Electronic Scrap Recycling Act, it is illegal for any
2 person to dispose of any CED into a landfill, or by
3 incineration, in this State. That 3-year period may be modified
4 by the Director of the Agency.

5 Section 999. Effective date. This Act takes effect upon
6 becoming law. Sections 1, 20, and 999 apply and are operative
7 beginning on the effective date. All other Sections apply and
8 are operative beginning January 1, 2009.