



Sen. Susan Garrett

Filed: 3/23/2007

09500SB1583sam002

LRB095 10779 CMK 34511 a

1 AMENDMENT TO SENATE BILL 1583

2 AMENDMENT NO. _____. Amend Senate Bill 1583 by replacing
3 everything after the enacting clause with the following:

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

1 pose environmental risks at the products' end-of-life;

2 (c) that many electronic devices that become obsolete
3 for a given user can in fact be refurbished and redeployed
4 for reuse to a secondary user that can utilize the devices
5 to enhance educational and technological capabilities of
6 Illinois residents;

7 (d) that valuable commodities including steel, glass,
8 plastics, and precious metals can be successfully
9 recovered and recycled, thus conserving natural resources
10 and energy, as well as reducing air and water pollution,
11 and greenhouse gas emissions;

12 (e) that the State has adopted a hierarchy to manage
13 wastes which places reuse and recycling as the preferred
14 management strategy over incineration and landfill
15 disposal options;

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

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

25 (2) It is the purpose of this Act to establish the Illinois
26 Materials Management and Financing Commission, a

1 not-for-profit public benefit corporation, to develop and
2 manage an environmentally sound statewide system for the
3 collection and recycling of electronic devices in accordance
4 with State policy.

5 Section 10. Definitions. When used in this Act, unless the
6 context clearly indicates otherwise, the following terms have
7 the meanings ascribed to them in this Section:

8 "Agency" means the Illinois Environmental Protection
9 Agency.

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

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

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

23 "Cellular telephone" means a hand-held mobile
24 radiotelephone, normally equipped with a viewing screen less
25 than 4 inches when measured diagonally, for use in an area

1 divided into small sections, each with its own short-range
2 transmitter/receiver.

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

5 "Computer" means an electronic, magnetic, optical,
6 electrochemical, or other highspeed data processing device
7 performing logical, arithmetic, or storage functions, and may
8 include both a computer central processing unit and a monitor,
9 but does not include an automated typewriter, electronic
10 printer, portable hand-held calculator, portable digital
11 assistant (PDA), or other similar device.

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

16 "Covered electronic device or CED" means any computer,
17 portable computer, electronic printer, computer peripheral,
18 video display device, video display device peripheral, or
19 facsimile machine that has been used and discarded in this
20 State regardless of purchase location.

21 "Demanufacturing" means the process of separating CEDs
22 into metallic and non-metallic parts that can be recycled or
23 reused.

24 "Design for environment" means: (1) an environmental
25 manufacturing process that reduces the level of toxic materials
26 utilized in the manufacturing and production of a product and

1 (2) designing products that are easier to disassemble and
2 recycle.

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

5 "Downstream recycler" means a person that receives CEDs
6 from a recycler or broker for additional processing or
7 disposition.

8 "Electronic device" means an instrument that accomplishes
9 its purpose by controlling the flow of electrons through
10 inputs, processing, and outputs.

11 "E-scrap" is an informal name for electronic products at
12 the end of their useful life. The term is generally applied to
13 consumer and business electronic equipment and includes, but is
14 not limited to, computers and their associated peripheral
15 equipment, as well as televisions, video cassette recorders,
16 digital video disc players, stereos, copiers, facsimile
17 machines, and cellular phones.

18 "Manufacturer" means any person in business or no longer in
19 business but having a successor in interest, who, irrespective
20 of the selling technique used, including by means of distance
21 or remote sale:

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

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

26 (3) resells or has resold in this State CEDs produced

1 by other suppliers under its own brand or label; or

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

5 (5) imports or has imported a covered electronic
6 product in to the United States that is sold in or imported
7 into this State. However, if the imported covered
8 electronic device is manufactured by any person with a
9 presence in the United States meeting the criteria of
10 manufacturer under items (1) through (4) of this
11 subsection, that person is the manufacturer. For purposes
12 of this subsection, "presence" means any person that
13 performs activities conducted under the standards
14 established for interstate commerce under the commerce
15 clause of the United States Constitution; or

16 (6) sells at retail a covered electronic product
17 acquired from an importer that is the manufacturer as
18 described in item (5) of this subsection, and elects to
19 register in lieu of the importer as the manufacturer of
20 those products.

21 "Monitor" means a separate visual display component of a
22 computer, either sold separately or together with a computer
23 central processing unit box. A monitor is made up of: (i) a
24 cathode ray tube; liquid crystal display; gas plasma; digital
25 light processing; or other image projection technology greater
26 than 4 inches when measured diagonally; (ii) a case; (iii)

1 interior wires and circuitry; (iv) a cable to the central
2 processing unit; and (v) a power cord.

3 "New Entrant" means (1) a manufacturer of video display
4 devices, video display device peripherals, or facsimile
5 machines, that have been sold in the State for less than 10
6 years or (2) a manufacturer of computers, portable computers,
7 electronic printers, and computer peripherals that have been
8 sold in the State for less than 5 years. However, a
9 manufacturer of both video display devices and computers, or a
10 manufacturer of both video display devices and computer
11 monitors that is deemed a new entrant under either (1) or (2)
12 of this definition, but not both, is not considered a new
13 entrant.

14 "Orphan CEDs" means those CEDs that are returned for
15 recycling or reuse for which the manufacturer cannot be
16 identified or is no longer conducting business and has no
17 successor in interest.

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

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

26 "Processing" means the mechanical demanufacturing of CEDs

1 to recover various commodities contained therein.

2 "Recycler" means a person that engages in recycling of
3 CEDs.

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

8 "Recycling facility" means all contiguous land,
9 structures, other appurtenances, and improvements used for
10 demanufacturing, dismantling, or processing of CEDs for
11 recycling or reuse. A recycling facility does not include a
12 location to refurbish CEDs.

13 "Refurbish" means a process by which non-functioning or
14 damaged electronic devices or products are returned to a
15 functioning state.

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

18 "Reuse" means the recovery or reapplication of a CED in a
19 manner that retains its original form or identity and does not
20 involve processes that significantly alter its original
21 condition or its intended purpose.

22 "Video display device" means an output surface having a
23 viewable area greater than 4 inches when measured diagonally
24 that displays moving graphical images or a visual
25 representation of image sequences or pictures, showing a number
26 of quickly changing images on a screen in fast succession to

1 create the illusion of motion, including, if applicable, a
2 device that is an integral part of the display that produces
3 the moving image on the screen. Displays typically use a CRT,
4 liquid crystal display, gas plasma, digital light processing,
5 or other image projection technology.

6 "Video display device peripherals" means a device that is
7 external to, but connected to, a video display device for the
8 purpose of viewing media such as video game consoles, video
9 cassette recorders/players, digital video disk players, or
10 similar devices.

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

17 Section 20. Scope of covered electronic devices (CEDs).
18 This Act does not cover any of the following:

19 (1) A CED that is a part of a motor vehicle or any
20 component part of a motor vehicle assembled by, or for, a
21 vehicle manufacturer or franchised dealer, including
22 replacement parts for use in a motor vehicle.

23 (2) A CED that is functionally or physically a part of
24 a larger piece of equipment designed and intended for use

1 in an industrial, commercial, agricultural, or medical
2 setting, including diagnostic, monitoring, or control
3 equipment.

4 (3) A CED that is contained within a clothes washer,
5 clothes dryer, refrigerator, refrigerator and freezer,
6 microwave oven, conventional oven or range, dishwasher,
7 room air conditioner, dehumidifier, water pump, sump pump,
8 or air purifier.

9 (4) Small consumer electronic devices including
10 wristwatches, timers and clocks; cellular telephones;
11 sonar and fish locators; radar detectors; thermometers;
12 hand-held calculators; levels, tape measures, stud
13 finders, and other electronic building supplies; garage
14 door openers; games; range finders; personal digital
15 assistants; electronic encoding audio data storage and
16 retrieval devices; and other similar devices.

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

22 Section 25. Recycling system management.

23 (a) The Illinois Materials Management and Financing
24 Commission is established as a public body corporate and
25 politic, constituting an instrumentality of the State

1 exercising essential governmental functions. The Commission
2 shall be solely responsible for managing a cost-efficient and
3 environmentally sound State collection, transportation, and
4 recycling system for CEDs. The Commission will be funded via
5 the fees described in Section 30 of this Act. The Commission
6 will be organized as follows:

7 (1) The Commission is governed by a 9-member board of
8 directors, which shall be appointed by January 1, 2008. The
9 members of the board of directors shall be appointed by the
10 Governor, with the advice and consent of the Senate. The
11 Governor shall designate one of his or her appointees as
12 the chair, who shall represent a recognized 501(c)(3)
13 environmental advocacy organization headquartered in
14 Illinois. Four members shall be appointed by the Governor
15 as follows: 2 from the electronics manufacturing industry,
16 one from Illinois' recycling industry, and one from
17 Illinois' retailers. Four additional members shall be
18 appointed by the Governor.

19 (2) The Department of Commerce and Economic
20 Opportunity will issue a report to the Commission board of
21 directors no later than January 31, 2008, recommending an
22 initial registration fee calculated to cover the
23 Commission's cost of operation in fiscal year 2009, to
24 begin July 1, 2008. The Commission board of directors shall
25 inform manufacturers of the fee no later than April 1,
26 2008, and it shall be due and payable to the Illinois

1 Department of Revenue by July 1, 2008.

2 (3) By July 1, 2008, the Illinois Department of Revenue
3 shall create a dedicated fund into which all fees remitted
4 under this Act are deposited. The Commission's cost of
5 operations will be appropriated annually by the General
6 Assembly from this fund.

7 (4) By September 1, 2007, the Agency must determine the
8 amount that shall be deposited with the State by new
9 entrants seeking to sell CEDs in the State. This deposit
10 shall be based on the probable cost of future recycling of
11 new entrants' CEDs, based on the best available market
12 share and cost-per-pound recycling data from the United
13 States, including data from other states. This deposit is
14 in addition to the registration fee described in item (3)
15 of this subsection, and shall be refunded with interest to
16 the new entrant when the new entrant's years of doing
17 business in the State exceed the thresholds defined in
18 Section 10.

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

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

22 (7) The directors of the Department of Commerce and
23 Economic Opportunity and the Illinois Environmental
24 Protection Agency shall serve as non-voting ex officio
25 members. The State agency directors serving in ex officio
26 capacity may each designate an employee of their respective

1 departments to act on their behalf in all respects with
2 regard to any matter to come before the Commission. Ex
3 officio designations must be made in writing and
4 communicated to the chair of the Commission.

5 (8) By December 31, 2008, the Commission shall submit
6 to the General Assembly a business plan that:

7 (A) includes an organizational structure;

8 (B) outlines the Commission's projected
9 operational revenues and expenses for the 5 fiscal
10 years beginning July 1, 2009; and

11 (C) proposes changes, if any, to the registration
12 fee for all manufacturers calculated to cover the
13 Commission's cost of operation in the fiscal year
14 beginning July 1, 2009.

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

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

5 (10) The Commission shall have the authority to
6 administer this Act, including the power to assess
7 penalties for non-compliance and to develop rules
8 implementing this Act.

9 The members of the board shall serve without compensation
10 but are entitled to reimbursement, solely from the funds
11 appropriated to the Commission, for expenses incurred in the
12 discharge of their duties under this Act.

13 (b) Specific responsibilities of the Commission shall be
14 to:

15 (1) Organize, administer, and ensure that electronics
16 collection opportunities are available throughout the
17 State and in such a manner as to be convenient, to the
18 maximum extent feasible, to all covered persons in the
19 State.

20 (2) Encourage the use of existing collection and
21 consolidation infrastructures for handling CEDs to the
22 extent that this infrastructure is accessible on a regular
23 and ongoing basis to Illinoisans, is cost effective, and
24 meets the environmentally sound management requirements
25 described in this Act. The Commission shall, through
26 contractual agreement, compensate for the collection and

1 recycling of CEDs, by recyclers and brokers meeting the
2 requirements of Section 60, whether by government,
3 for-profit corporations, non-profit corporations,
4 retailers, manufacturers, or any other party, for the
5 reasonable costs associated with these activities. These
6 activities shall be audited annually. In order to
7 strengthen the market for Illinois recycling companies,
8 the Commission shall not pay for costs associated with the
9 use of prison labor.

10 (3) Maintain a list of all manufacturers that have
11 registered with the State and post the list on an Internet
12 website. Two years after the effective date of this Act, no
13 manufacturer may sell a CED in Illinois unless the
14 manufacturer has registered with the State and is in
15 compliance with the provisions of this Act. Further,
16 beginning July 1, 2008, no manufacturer or retailer may
17 sell any CED in Illinois unless the manufacturer has
18 registered and the CED is labeled with the manufacturer's
19 brand, and that label is permanently affixed and is readily
20 visible.

21 (4) By January 1, 2009, set the cost per pound for
22 collection, transportation, and recycling of CEDs in order
23 to reasonably approximate market costs for these services,
24 which cost per pound is used to calculate the fee required
25 by Section 30 of this Act. Beginning July 1, 2010, and
26 annually thereafter, the Commission may adjust such cost

1 per pound in order to reasonably approximate market costs
2 for the collection, transportation, and recycling of CEDs.
3 Prior to setting or adjusting the cost per pound, the
4 Commission shall notify the public, including all
5 manufacturers registered under subsection (a) of Section
6 30 of this Act, of the proposed cost per pound and provide
7 a public comment period. By the May 1 prior to the program
8 year for which the revised cost per pound is to be used,
9 the Commission shall notify all registered manufacturers
10 of any adjustments to the cost per pound, as well as any
11 adjustments to the registration fee.

12 (5) Determine the return share for each program year
13 for each manufacturer by dividing the weight of CEDs
14 identified for each manufacturer by the total weight of
15 CEDs identified for all manufacturers. For the first
16 program year, beginning July 1, 2009, the return share of
17 CEDs identified for each manufacturer shall be based on the
18 best available CED public return share data from the United
19 States, including data from other states. For the second
20 and each subsequent program year, the return share of CEDs
21 identified for each manufacturer shall be based on the most
22 recent samplings of CEDs conducted in this State as
23 described in item (8) of this subsection, and sampling
24 conducted by manufacturers choosing the self-recycling
25 option as described in Section 45 of this Act.

26 (6) Determine the return share in weight for each

1 program year for each manufacturer for whom a return share
2 is determined under item (5) of this subsection by
3 multiplying the return share for each such manufacturer by
4 the total weight in pounds of CEDs, including orphan
5 devices, collected from covered entities the previous
6 program year. For the first program year, the total weight
7 in pounds of CEDs shall be based on the best available
8 public weight data from the United States, including data
9 from other states. For the second and each subsequent
10 program year, the total weight in pounds of CEDs shall be
11 based on the total weight of CEDs, including legacy and
12 orphan devices, as described in item (8) of this
13 subsection, and sampling conducted by manufacturers
14 choosing the self-recycling option as described in Section
15 45 of this Act.

16 (7) By January 1, 2009, the Commission shall provide
17 each manufacturer for whom a return share is determined
18 pursuant to item (5) of this subsection with its return
19 share and its return share in weight for the year beginning
20 July 1, 2009. Beginning on April 1, 2010 and by April 1 of
21 each year thereafter, the Commission shall provide each
22 manufacturer for whom a return share is determined pursuant
23 to item (5) of this subsection with its return share and
24 its return share in weight for the second and subsequent
25 program years.

26 (8) By March 15, 2010, and by March 15 of each year

1 thereafter:

2 (A) Complete an auditable, statistically
3 significant sampling of CEDs collected by the
4 Commission during the previous 12 months. The sampling
5 to be completed by March 15, 2010, shall be calculated
6 for the period beginning July 1, 2009. The sampling
7 information collected shall consist of a list of brands
8 of CEDs and the weight of CEDs that are identified for
9 each brand. The Commission's sampling shall be
10 conducted in accordance with a procedure established
11 by the Commission and may be conducted by a third-party
12 organization, including a recycler. The Commission
13 may, at its discretion, be present at the sampling and
14 may audit the methodology and the results of the
15 third-party organization. The costs associated with
16 the sampling shall be considered one of the
17 Commission's costs of doing business; and

18 (B) Determine the total weight of CEDs, including
19 orphan devices, collected by the Commission during the
20 previous 12 months. The total weight determination to
21 be completed by March 15, 2010, shall be calculated for
22 the period beginning July 1, 2009.

23 (9) Receive fees from manufacturers or their agents for
24 the sole purpose of fulfilling its responsibilities under
25 this Act.

26 (10) Organize and coordinate public outreach in

1 association with the primary education responsibility
2 charged to retailers, and any secondary education plan
3 established by manufacturers, recyclers, and the State.

4 (11) Beginning in 2010, convene on an annual or
5 biannual basis an Electronic Product Life-cycle and
6 Recycling E-Scrap Assembly, composed of manufacturers and
7 retailers of CEDs, participants in outreach, collection,
8 processing and disposal activities of the Commission,
9 including persons who have signed up for regular
10 communication, and members of the General Assembly and
11 local public bodies to review and prepare recommendations
12 on electronic product life-cycle goals and outcomes of the
13 Commission. The Assembly shall conduct separate reviews of
14 and make recommendations on the outreach and collection
15 processes, and the recycling and life-cycle management
16 processes, and shall be addressed by a nationally or
17 internationally recognized leader in electronic product or
18 environmental life-cycle management, with comments on such
19 State of Electronic Product Life-cycles in Illinois by the
20 public officials and others who are directors of the
21 Commission.

22 (12) Prepare a business plan every 3 years that
23 establishes collection and recycling goals for each
24 manufacturer based on current return share data and the
25 best available estimates of projected collection and
26 recycling activity.

1 (13) Identify any necessary State actions to expand the
2 collection opportunities to achieve the goals outlined in
3 item (12) of this subsection.

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

8 (A) A list of all parties participating in the
9 system whom the Commission has designated as approved
10 to receive payments, the amount of payments it has made
11 to those parties, and the purpose of those payments.

12 (B) The total number and weight of CEDs collected
13 in the State the previous year as reported to the
14 Commission.

15 (C) Progress toward achieving the overall annual
16 total recovery and recycling goals described in the
17 business plan.

18 (D) The total amount of fees collected.

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

20 (i) Education

21 (ii) Administration

22 (iii) Collection

23 (iv) Transportation

24 (v) Recycling

25 (vi) Disposal

26 (vii) Other

1 (F) Any surplus funds carried forward.

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

4 (H) An evaluation of the effectiveness of the
5 education and outreach program.

6 (15) Be fully audited by the Auditor General of the
7 State at the end of each program year, with that audit
8 report submitted to the General Assembly.

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

12 Section 30. Basic fee mechanism.

13 (a) Prior to July 1, 2008, all manufacturers shall register
14 with the Commission and pay to the Commission the initial
15 registration fee described in item (2) of subsection (a) of
16 Section 25 of this Act. Thereafter, if a manufacturer has not
17 previously filed a registration, the manufacturer shall file a
18 registration with the Commission prior to any offer for sale
19 for delivery in the State of the manufacturer's new CEDs. Any
20 manufacturer to whom the Commission provides notification of a
21 return share and return share in weight pursuant to item (7) of
22 subsection (b) of Section 25 of this Act and who has not
23 previously filed a registration shall file a registration with
24 the Commission within 30 days of receiving such notification.

25 (b) Each manufacturer who is registered shall submit an

1 annual renewal of the manufacturer's registration to the
2 Commission and pay to the department the registration fee
3 described in item (2) of subsection (a) of Section 25 of this
4 Act by July 1 of each program year.

5 (c) The registration and each renewal shall include a list
6 of all of the manufacturer's brands of CEDs and shall be
7 effective on the second day of the succeeding month after
8 receipt by the Commission of the registration or renewal.

9 (d) By July 1, 2009, a new entrant as of July 1, 2009
10 selling its CEDs in the State shall register with the
11 Commission, pay to the Commission the initial registration fee
12 described in item (2) of subsection (a) of Section 25 of this
13 Act, and deposit with the State the deposit described in item
14 (8)(D) of subsection (a) of Section 25 of this Act. Beginning
15 July 1, 2009, new manufacturers of CEDs, or manufacturers of
16 CEDs who have not previously sold their CEDs in the State, must
17 also comply with the requirements of this subsection (d).

18 (e) By September 1, 2010, each manufacturer to whom the
19 Commission provides, by January 1, 2009, a return share in
20 weight that is greater than zero shall:

21 (1) Submit an additional fee to the Commission based on
22 its return share in weight of CEDs for the program year
23 beginning July 1, 2009. The fee shall be calculated by
24 multiplying the manufacturer's return share in weight by
25 the cost per pound for collection, transportation, and
26 recycling of CEDs determined by the Commission pursuant to

1 item (4) of subsection (b) of Section 20 of this Act;

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

7 (3) Each manufacturer to whom the Commission provides,
8 by April 1, 2010, or by April 1 of any year thereafter, a
9 return share in weight that is greater than zero shall, by
10 July 1 of that year, comply with subparagraph (1) or (2) of
11 this subsection (d).

12 Section 35. Restrictions on hazardous substances.

13 (a) On and after January 1, 2009, no person shall sell or
14 offer for sale in this State, a CED if the device is prohibited
15 from being sold or offered for sale in the European Union on or
16 after its date of manufacture due to the concentration of one
17 or more heavy metals in the device exceeding its maximum
18 concentration value, as specified in the Commission of European
19 Communities' Decision of August 18, 2005, amending Directive
20 2002/95/EC (European Union document 2005/618/EC), or as
21 specified in a subsequent amendment to the Directive.

22 (1) This subsection (a) applies only to a CED that is
23 manufactured on or after January 1, 2009.

24 (2) This subsection (a) does not apply to a CED that is
25 sold or offered for sale in this State only for purposes of

1 resale or offering for resale to persons outside of this
2 State.

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

8 (b) In determining the concentrations of metals for
9 compliance with subsection (a) of this Section, the Agency
10 shall not consider any cadmium, chromium, lead, mercury, or any
11 component containing any of those metals, which has been
12 exempted by Directive 2002/95/EC, or by an amendment to the
13 Directive.

14 (c) In adopting regulations under this Section, the Agency
15 shall not require the manufacture or sale of an electronic
16 device that is different than, or otherwise not prohibited by,
17 the European Union under Directive 2002/95/EC, adopted by the
18 European Parliament and the Council of the European Union on
19 January 27, 2003.

20 (d) The Agency may not adopt any regulations under this
21 Section that impose any requirements or conditions that are in
22 addition to, or more stringent than, the requirements and
23 conditions expressly authorized by this Section. In complying
24 with this subsection (d), the Agency shall use, in addition to
25 any other information deemed relevant by the Agency, the
26 published decisions of the Technical Adaptation Committee and

1 European Union member states that interpret the requirements of
2 Directive 2002/95/EC.

3 Section 40. Fee reduction for manufacturers designing for
4 environment. Manufacturers may apply for a reduced fee based on
5 improvements to their CEDs that make the products easier to
6 recycle, less hazardous, or both. Within one year after the
7 effective date of this Act, the Commission, working with the
8 Agency, shall develop a minimum level of environmental design
9 for all CEDs being sold in the State. This minimum level of
10 design shall be based on scores from the Electronic Products
11 Environmental Assessment Tool, whose minimum criteria meets
12 the standards set forth in Section 35 of this Act. Thereafter,
13 on an annual basis, manufacturers may apply for a reduction in
14 the per-unit fee for a CED that will take effect the following
15 year. Manufacturers choosing the self-recycling option may
16 apply for a permanent reduction in the annual registration fee
17 that will take effect the following year. The application shall
18 be based on a design and production change that will go beyond
19 the minimum level of environmental design and significantly
20 improve the product's recyclability or reduce the health risk
21 posed by the materials in the unit, as judged exclusively by
22 the Commission, in consultation with the Agency. The fee
23 reduction shall be revoked if the Commission or the Agency
24 determines that the design or production modification leading
25 to the reduction has been reversed or materially altered to the

1 detriment of recyclability or hazardousness in a future year. A
2 fee reduction guide shall be developed by the Commission, in
3 consultation with the Agency, within one year after the
4 effective date of this Act.

5 Section 45. Self-recycling.

6 (a) Manufacturers may choose not to participate in the
7 State recycling system operated by the Commission and instead
8 operate their own program for the collection and recycling of
9 CEDs. To be eligible for the self-recycling option, a
10 manufacturer must not be a new entrant.

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

20 A manufacturer's application shall include all of the
21 following elements:

22 (1) Description of the systems for the collection,
23 transporting, and processing of CEDs.

24 (2) Service providers for the collection,
25 transportation, and processing of CEDs.

1 (3) Names of recycling companies meeting the
2 requirements of Section 60 of this Act that are
3 headquartered in Illinois to which the manufacturer will
4 send its CEDs for processing (Illinois-based recycling
5 companies are preferred provided that the manufacturer
6 does not operate its own recycling plants elsewhere in the
7 United States).

8 (4) Description of accessibility of recycling service
9 to all citizens of the State.

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

13 (6) Timeline, including startup and implementation,
14 with associated progress milestones with anticipated
15 results.

16 (7) A public information campaign, complementary to,
17 and designed in conjunction with, the primary
18 retailer-driven campaign described in Section 65 of this
19 Act, to promote the recycling of electronic products and
20 proper end-of-life management of the products by the final
21 users.

22 The Commission shall count the collection of a single CED
23 as 2 CEDs by weight when that item is donated free of charge by
24 a manufacturer approved by the Commission to operate a
25 self-recycling program for reuse to the Illinois State Board of
26 Education, or to any not-for-profit corporation recognized

1 under Section 501(c)(3) of the Internal Revenue Code, whose
2 principal mission is to assist low-income children or families
3 living in Illinois. To qualify for the donation reuse credit
4 under this Section, manufacturers must ensure the delivery of
5 electronic equipment that: (a) is no older than 6 years old;
6 (b) is in full working condition with all component parts and
7 all necessary accessories; and (c) has been approved for
8 donation by the recipient in a writing specifying the
9 disposition of the donation.

10 (b) By August 1, 2010, and by August 1 of each subsequent
11 program year, a manufacturer qualifying for the self-recycling
12 option shall file an annual report with the Commission
13 including the following:

14 (1) Total weight of CEDs collected and recycled the
15 previous program year;

16 (2) The results of an auditable, statistically
17 significant sampling of CEDs collected by the manufacturer
18 or group of manufacturers during the previous program year.
19 The sampling information reported shall consist of a list
20 of brands of CEDs and the weight of CEDs that are
21 identified for each brand;

22 (3) The total weight of CEDs, including orphan devices,
23 collected by the manufacturer or group of manufacturers
24 during the previous program year and documentation
25 verifying collection and recycling of such devices;

26 (4) Total weight of eligible equipment donated for

1 reuse to eligible organizations; and

2 (5) An evaluation of the existing infrastructure to
3 fulfill the manufacturer's collection and recycling
4 responsibilities.

5 Section 50. Retailer responsibilities. Retailers shall be
6 the primary source of information about end-of-life options to
7 electronics consumers. As such, retailers shall be charged
8 with:

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

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

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

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

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

1 Section 60. Program operational standards. All recyclers
2 and brokers participating in the Commission's plan, or any
3 manufacturer qualifying for self-recycling as described in
4 Section 45 of this Act, must ensure that collection,
5 refurbishment, and recycling efforts are conducted in a manner
6 that is in compliance with all applicable federal, State, and
7 local laws, regulations, and ordinances, and must ensure that
8 CEDs are not exported for disposal in a manner that poses a
9 risk to the public health or the environment. Specifically,
10 recyclers and brokers shall:

11 (1) Be certified by either the International
12 Association of Electronics Recyclers or the Institute of
13 Scrap Recycling Industries.

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

23 (3) Consistent with the guidelines of the U.S.
24 Environmental Protection Agency Plug-in Partner campaign,
25 ensure compliance with any applicable requirements of the
26 United States, as well as applicable requirements of

1 importing and transit countries. Recyclers must be aware of
2 the Basel Convention, to which the United States has signed
3 but has not ratified. Nonetheless, recyclers, downstream
4 recyclers, and brokers must be knowledgeable of the Basel
5 Convention requirements that could affect them, as
6 implemented by the laws of importing and transit countries.
7 In addition, the importing and transit countries may have
8 other laws and regulations that could affect United States
9 exporters and their transactions. Until such time as the
10 United States becomes a party to the Basel Convention, no
11 country that is a party to the Basel Convention but not a
12 member of the Organization for Economic Cooperation and
13 Development may legally accept hazardous waste (and thus
14 CEDs because of the Basel Convention's definition of
15 hazardous waste) exported from the United States absent a
16 bilateral agreement between the governments under Article
17 11 of the Basel Convention.

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

20 (5) Possess and maintain a documented Environmental
21 Health and Safety Management System and ensure that current
22 operations comply with the current Institute for Scrap
23 Recycling Industries, Inc. electronics recycling operating
24 practices policy manual. The Commission shall review this
25 manual on an annual basis for adequacy, and shall perform
26 announced or unannounced audits at its discretion.

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

8 (7) Agree to provide visible tracking of CEDs
9 throughout the product recycling chain. The tracking
10 information should show the final disposition of all
11 hazardous waste materials. If there is a concern about
12 trade secrets, an independent auditor acceptable to
13 parties concerned may be used to verify compliance.

14 Section 65. State government procurement. On and after
15 January 1, 2009, all units of State government shall fulfill at
16 least 95% of the unit of government's need for CEDs by
17 purchasing only those CEDs registered with the U.S. EPA's
18 Electronic Product Environmental Assessment Tool (EPEAT),
19 unless there is no registered EPEAT product matching the need.

20 Section 70. Relation to federal law. This Act is intended
21 to govern all aspects of the collection and recycling of CEDs
22 as those terms are defined in this Act. Upon the implementation
23 of a national program acceptable to the General Assembly to
24 collect, recycle, or both, CEDs, the provisions of this Act

1 shall sunset within the time frame determined by federal law.

2 Section 900. The Environmental Protection Act is amended by
3 adding Section 22.54 as follows:

4 (415 ILCS 5/22.54 new)

5 Sec. 22.54. E-scrap. Three years after the effective date
6 of the Electronic Scrap Recycling Act, it is illegal for any
7 person to dispose of any CED into a landfill, or by
8 incineration, in this State. That 3-year period may be modified
9 by the Director of the Agency.

10 Section 999. Effective date. This Act takes effect upon
11 becoming law. Sections 1, 20, and 999 apply and are operative
12 beginning on the effective date. All other Sections apply and
13 are operative beginning January 1, 2008.".