

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE BILL 1553**

Short Title: Recycling Discarded Computer Equipment. (Public)

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Sponsors: Senators Cowell; and Snow.

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Referred to: Commerce, Small Business and Entrepreneurship.

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March 28, 2007

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH THE NORTH CAROLINA PRODUCER  
3 RESPONSIBILITY PROGRAM FOR THE RECYCLING OF DISCARDED  
4 COMPUTER EQUIPMENT.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 9 of Chapter 130A of the General Statutes is amended  
7 by adding a new Part to read:

8 "Part 2E. "North Carolina Computer Equipment Responsibility Program.

9 "§ 130A-309.90. Findings.

10 The General Assembly makes the following findings:

- 11 (1) The computer equipment waste stream is growing rapidly in volume  
12 and complexity and can introduce toxic materials into solid waste  
13 landfills.
- 14 (2) It is in the best interests of North Carolina's citizens to have  
15 convenient, simple, and free access to recycling services for their  
16 discarded computer equipment.
- 17 (3) Collection programs operated by local government and nonprofit  
18 agencies are an efficient way to divert discarded computer equipment  
19 from disposal and to provide recycling services to all North  
20 Carolinians across the State.
- 21 (4) The development of local and nonprofit collection programs is  
22 hindered by the high costs of recycling and transporting discarded  
23 computer equipment.
- 24 (5) No other system currently exists, either provided by electronics  
25 manufacturers, retailers, or others, to adequately serve all North  
26 Carolinians and to divert large quantities of discarded computer  
27 equipment from disposal.

1           (6) Manufacturer responsibility is an effective way to ensure that  
2           manufacturers of computer equipment take part in a solution to the  
3           electronic waste problem.

4           (7) The recycling of discarded computer equipment recovers valuable  
5           materials for reuse and will create jobs and expand the tax base in  
6           North Carolina.

7 **"§ 130A-309.91. Definitions.**

8 As used in this section, the following definitions apply:

9           (1) Computer equipment. – Any desktop central processing unit, any  
10           laptop computer, the monitor or video display unit for a computer  
11           system, the keyboard, mice, and any other peripheral equipment, and  
12           printing devices such as printers, scanners, combination  
13           print-scanner-fax machines, and other devices designed to produce  
14           hard paper copies from a computer. Computer equipment does not  
15           include an automobile, a household appliance, a large piece of  
16           commercial or industrial equipment, such as commercial medical  
17           equipment, that contains a cathode ray tube, a cathode ray tube device,  
18           a flat panel display or similar video display device that is contained  
19           within, and is not separate from, the larger piece of equipment, or other  
20           medical devices as that term is defined under the federal Food, Drug,  
21           and Cosmetic Act.

22           (2) Discarded computer equipment. – Computer equipment that has  
23           reached the end of its useful life and is ready to be recycled.

24           (3) Discarded computer equipment collectors. – A municipal or county  
25           government, nonprofit agency, or retailer that accepts computer  
26           equipment from the public.

27           (4) Certified computer equipment recycling facility. – A business that  
28           processes covered electronic devices for reuse and recycling that meets  
29           a minimum set of operational and material handling standards  
30           determined by the Department.

31           (5) Manufacturer. – A person who manufactures computer equipment sold  
32           under its own brand or label; sells under its own brand or label  
33           computer equipment produced by other suppliers; imports into the  
34           United States computer equipment that was manufactured by a person  
35           without a presence in the United States; or owns a brand that it licenses  
36           to another person for use on computer equipment.

37           (6) Orphan discarded computer equipment. – Any computer equipment for  
38           which a manufacturer cannot be identified or for which the  
39           manufacturer is no longer in business and has no successor in interest.

40           (7) Retailer. – A person who sells computer equipment in the State to a  
41           consumer. Retailer includes a manufacturer of computer equipment  
42           that sells directly to a consumer through any means, including  
43           transactions conducted through sales outlets, catalogs, or the Internet,

1           or any similar electronic means, but not including wholesale  
2           transactions with a distributor or other retailer.

3   **"§ 130A-309.92. Responsibility for recycling discarded computer equipment.**

4           In addition to the specific requirements of this Part, computer equipment collectors,  
5           certified computer equipment recycling facilities, manufacturers, and the State share  
6           responsibility for the recycling of discarded computer equipment and the education of  
7           consumers in North Carolina on recycling opportunities for discarded computer  
8           equipment.

9   **"§ 130A-309.93. Requirements for manufacturers.**

10          (a)   Registration and Fee Required. – Each manufacturer of computer equipment  
11          sold in North Carolina shall register with the Department and shall pay an initial  
12          registration fee of ten thousand dollars (\$10,000) to the Department and an annual  
13          renewal registration fee of five thousand dollars (\$5,000). The proceeds of these fees  
14          shall be credited to the Computer Equipment Management Account.

15          (b)   Manufacturer Label Required. – A manufacturer shall not offer for sale in this  
16          State computer equipment unless a visible, permanent label clearly identifying the  
17          manufacturer of that device is affixed to it.

18          (c)   Recycling Plan; Duty to Pay Cost of Recycling. – Each manufacturer of  
19          computer equipment shall do all of the following:

20               (1)   Develop and submit to the Department a plan for approval by the  
21               Department for the recycling or reuse of computer equipment  
22               produced by the manufacturer and generated as discarded computer  
23               equipment by households in North Carolina. This plan shall be based  
24               on the manufacturer's taking responsibility for its products upon  
25               receipt at a certified computer equipment recycling facility and shall  
26               include mechanisms by which a manufacturer of computer equipment  
27               shall implement and finance the implementation of this plan. This plan  
28               shall identify a specific arrangement for working with each certified  
29               computer equipment recycling facility, including the prompt payment  
30               of quarterly invoices from certified computer equipment recycling  
31               facilities. Any plan that excludes any certified computer equipment  
32               recycling facility in the State shall not be approved by the Department.

33               (2)   Include in its plan under subdivision (1) of this subsection, at a  
34               minimum, all of the following:

35                   a.   Details about meeting all labeling requirements.

36                   b.   Details for implementing and financing the handling of  
37                   discarded computer equipment originally produced by the  
38                   manufacturer and orphan discarded computer equipment  
39                   generated by households in this State and received by certified  
40                   computer equipment recyclers in this State. The plan shall show  
41                   how all costs of handling, transporting, and recycling of  
42                   discarded computer equipment will be paid.

43                   c.   A mechanism by which the manufacturer will work with each  
44                   certified computer equipment recycling facility, including how

- 1                   quarterly invoices will be received from the facility and paid by  
2                   the manufacturer.
- 3                   d.    A description of the performance measures that will be used by  
4                   the manufacturer to report recovery and recycling rates for  
5                   discarded computer equipment.
- 6                   (3)   Upon approval of the plan under subdivision (1) of this subsection by  
7                   the Department, begin immediate implementation of its plan.
- 8                   (4)   Following submission and approval of the original plan, revise the plan  
9                   at any time as the manufacturer considers appropriate in response to  
10                  changing circumstances or needs, but only if these revisions conform  
11                  to the provisions of this Part and are submitted to the Department in a  
12                  timely manner.
- 13                  (5)   Pay those reasonable costs of operating a certified computer equipment  
14                  recycling facility that are attributable to the handling of discarded  
15                  computer equipment generated as waste by households in this State,  
16                  the costs of transporting the discarded computer equipment from the  
17                  computer equipment collector to a certified computer equipment  
18                  recycling facility, and the actual costs of recycling the discarded  
19                  computer equipment. A manufacturer is responsible for all costs  
20                  associated with the development and implementation of its plan under  
21                  this subsection. If the costs of implementing the plan are passed on to  
22                  consumers, the costs shall be imposed at the time of purchase and shall  
23                  be in the form of a fee imposed at the end of the life of the computer  
24                  equipment.
- 25                  (6)   Pay each certified computer equipment recycling facility for the  
26                  manufacturer's pro rata share of orphan discarded computer equipment  
27                  waste from the previous calendar year, calculated under  
28                  G.S. 130A-309.97.
- 29                  (7)   In lieu of the requirements under subdivisions (1) through (5) of this  
30                  subsection, participate in a collective recovery plan with other  
31                  manufacturers so long as the collective recovery plan shall meet the  
32                  same standards and requirements of the plan submitted by an  
33                  individual manufacturer under subdivisions (1) through (5) of this  
34                  subsection.
- 35                  (8)   By January 31 of each year, submit a report to the Department that  
36                  includes all of the following:
- 37                   a.    A description of the collection and recycling services utilized to  
38                   recover the manufacturer's products.
- 39                   b.    Substantiated estimates, on an annual basis for the preceding  
40                   calendar year, of the quantities of computer equipment  
41                   marketed to retail consumers in this State and collected for  
42                   recovery in this State.
- 43                   c.    The capture rate for computer equipment based on sales in this  
44                   State and any systems implemented by the manufacturer to

1                   ensure the minimum environmentally sound management of its  
2                   products.

3           (9)   Keep any information submitted pursuant to this subsection  
4           confidential as provided by existing State law.

5           (10) At the option of the manufacturer, provide information to the  
6           Department, for consideration by the Department under  
7           G.S. 130A-309.97, on any certified computer equipment recycling  
8           facility whose cost charges are unreasonable.

9   **"§ 130A-309.94. Prohibited sales of computer equipment.**

10   (a)   A manufacturer not in compliance with the requirements of  
11   G.S. 130A-309.93 shall not offer computer equipment for sale in this State and shall  
12   provide the necessary support to retailers to ensure the manufacturer's computer  
13   equipment is not offered for sale in this State.

14   (b)   A retailer shall not offer for sale in this State computer equipment of a  
15   manufacturer that is not in compliance with the requirements of G.S. 130A-309.93.

16   **"§ 130A-309.95. Certification of computer equipment recycling facilities.**

17   (a)   No business shall accept for recycling discarded computer equipment unless  
18   it has obtained from the Department certification as a computer equipment recycling  
19   facility. Only a computer equipment recycling facility that is certified by the  
20   Department is eligible to be included in a manufacturer producer responsibility plan and  
21   is eligible to invoice a manufacturer for the costs of recycling discarded computer  
22   equipment.

23   (b)   To obtain certification as a computer equipment recycling facility, a business  
24   shall apply to the Department. Subject to subsections (c) and (d) of this section, the  
25   Department shall certify a business that demonstrates to the satisfaction of the  
26   Department that the business meets all of the following minimum environmentally  
27   sound management standards:

28           (1)   The business complies with all federal and State requirements for the  
29           proper handling of discarded electronic equipment, including  
30           specifically cathode ray tubes.

31           (2)   The business does not directly export intact nonworking cathode ray  
32           tubes.

33           (3)   The business does not indirectly export intact nonworking cathode ray  
34           tubes by either using suppliers or subcontractors that export these  
35           cathode ray tubes.

36           (4)   Complies with all federal and international laws and agreements on the  
37           export of used products or materials.

38           (5)   The business does not use prison labor to collect, process, or market  
39           discarded computer equipment.

40           (6)   The business does not use subcontractors or suppliers that use prison  
41           labor to collect, process, or market discarded computer equipment.

42           (7)   The business actively uses recycling industry auditing and certification  
43           programs to assess ongoing business and environmental performance.

- 1           (8)   The business has, and has implemented, a written health and safety  
2           plan to protect workers in handling discarded computer equipment  
3           within the business operations.
- 4           (9)   The business has a written plan for hazardous materials identification  
5           and management.
- 6           (10) The business has a written plan for reporting and responding to  
7           exceptional pollutant releases, including emergencies such as  
8           accidents, spills, fires, and explosions.
- 9           (11) The business has no record of significant violations of federal or State  
10          occupational health and safety or environmental laws within the  
11          previous three years by the business or its subcontractors or suppliers.
- 12          (12) The business uses appropriate equipment and facilities that minimize  
13          adverse exposures to workers and releases to the environment.
- 14          (13) The business has obtained certificates of insurance to cover all aspects  
15          of the business's operations, including commercial general liability  
16          insurance or equivalent corporate guarantee for accidents and other  
17          emergencies with limits of not less than one million dollars  
18          (\$1,000,000) per occurrence and not less than one million dollars  
19          (\$1,000,000) in the aggregate.
- 20          (14) The business has a written plan for cost coverage and the handling of  
21          discarded electronic equipment in the event of disruptions or cessation  
22          of the business's operations.
- 23          (15) The business has a demonstrated ability to report detailed information  
24          on incoming and outgoing materials and the management of those  
25          materials in its business operations.

26          (c)   Each applicant shall provide information on its business's typical cost charges  
27          for transporting and recycling of discarded computer equipment from computer  
28          equipment collectors or the methods by which it calculates such charges. Each applicant  
29          shall describe its experience and capacity to sort and manage discarded commuter  
30          equipment and its system of inventory management and cost accounting. The  
31          Department shall take the information provided by the applicant under this subsection  
32          into account when determining whether to certify the applicant as a computer equipment  
33          recycling facility.

34          (d)   When determining whether to certify or renew the certification of a computer  
35          equipment recycling facility, the Department shall review the cost charges of the  
36          certified computer equipment recycling facility to determine whether the charges are  
37          reasonable.

38          (e)   Each applicant for certification as a computer equipment recycling facility  
39          shall submit an application fee of five thousand dollars (\$5,000) and shall pay an annual  
40          renewal fee of two thousand five hundred dollars (\$2,500). The funds received under  
41          this section shall be credited to the Computer Equipment Management Account.

42          (f)   Any certified computer equipment recycling facility that fails to adhere to the  
43          minimum environmentally sound management standards under subsection (b) of this  
44          section shall be removed from the list of certified facilities and shall no longer be

1 eligible to be included in a manufacturer's plan or receive payment from any  
2 manufacture for the recycling of discarded computer equipment.

3 **"§ 130A-309.96. Requirements for certified computer equipment recycling**  
4 **facilities.**

5 Each certified computer equipment recycling facility shall do all of the following:

- 6 (1) Identify the manufacturer of discarded computer equipment delivered  
7 to its facility that was identified as generated by a household in this  
8 State.
- 9 (2) Maintain an accounting and an itemized inventory of the discarded  
10 computer equipment delivered to its facility, by manufacturer, and no  
11 later than January 15 of each year provide this accounting to the  
12 Department. The accounting under this subdivision shall include a  
13 determination of the amounts of orphan discarded computer  
14 equipment.
- 15 (3) Work cooperatively with manufacturers to ensure implementation of a  
16 practical and feasible financing system that, at a minimum, provides  
17 that each certified computer equipment recycling facility shall invoice  
18 any manufacturer for the handling, transportation, and recycling costs  
19 for which the manufacturer is responsible under the provisions of  
20 G.S. 130A-309.93.
- 21 (4) Ensure that the cost charges for recycling discarded computer  
22 equipment at its facility are reasonable.

23 **"§ 130A-309.97. Requirements for the Department.**

24 The Department shall:

- 25 (1) No later than January 31 of each year, calculate, based on the best  
26 available information, including but not limited to data provided by  
27 manufacturers and certified computer equipment recycling facilities  
28 and data from electronic waste collection programs in other  
29 jurisdictions within the United States, and provide each manufacturer  
30 and certified computer equipment recycling facility with a listing of  
31 each manufacturer's pro rata share of the orphan discarded computer  
32 equipment from the previous calendar year.
- 33 (2) Develop and maintain a list of certified computer equipment recycling  
34 facilities and supply this list to each registered computer equipment  
35 manufacturer registered under G.S. 130A-309.93 for inclusion in the  
36 manufacturer's plan under G.S. 130A-309.93.

37 **"§ 130A-309.98. Requirements for discarded computer equipment collectors.**

38 Each computer equipment collector that chooses to participate in the North Carolina  
39 Computer Equipment Responsibility Program under this Part shall ensure that discarded  
40 computer equipment generated from households served by the collector is delivered to a  
41 certified computer equipment recycling facility in this State. A collector may meet this  
42 requirement by:

- 43 (1) Collecting and transporting discarded computer equipment from a  
44 local or regional solid waste transfer station or recycling facility.

1           (2) Contracting with a recycling or solid waste facility to accept computer  
2 equipment directly from residents through curbside pickup, at a  
3 drop-off center operated by the collector, or by another collection  
4 system convenient to consumers of computer equipment.

5 **"§ 130A-309.99. Computer Equipment Management Account.**

6 The Computer Equipment Management Account is created as a nonreverting  
7 account within the Department. The fees deposited to the Computer Equipment  
8 Management Account as initial registration fees under G.S. 130A-309.93 shall be  
9 applied to the costs of implementing the Program under this Part, including necessary  
10 staff positions. The fees collected and credited to the Account under G.S. 130A-309.95  
11 shall be used to administer the Program under this Part.

12 **"§ 130A-309.100. Enforcement.**

13       (a) If a manufacturer fails to register with the Department or pay for the costs  
14 allocated to it, including its pro rata share of costs attributable to orphan discarded  
15 computer equipment, the Department shall seek cost recovery from the nonpaying  
16 manufacturer. Any nonpaying manufacturer is liable for the costs incurred by the  
17 Department in an amount up to three times the amount incurred as a result of such  
18 failure to comply.

19       (b) The Attorney General may commence a civil action against any manufacturer  
20 to recover the costs described in this section, which are in addition to any fines and  
21 penalties imposed.

22 **"§ 130A-309.101. Disposal ban.**

23 Discarded computer equipment shall not be disposed of in a landfill or by  
24 incineration.

25 **"§ 130A-309.102. Report required.**

26 No later than April 1 of each year, the Department shall submit a report on the  
27 recycling of discarded computer equipment in the State under this Part to the  
28 Environmental Review Commission. The report must include an evaluation of the  
29 recycling rates in the State for discarded computer equipment, a discussion of  
30 compliance and enforcement related to the requirements of this Part, and any  
31 recommendations for any changes to the system of collection and recycling of electronic  
32 devices in the State under this Part."

33 **SECTION 2.** G.S. 103A-309.09A(b)(6) reads as rewritten:

34       "(6) Include an assessment of current programs and a description of  
35 intended actions with respect to:

- 36       a. Education with the community and through the schools.
- 37       b. Management of special wastes.
- 38       c. Prevention of illegal disposal and management of litter.
- 39       d. Purchase of recycled materials and products manufactured with  
40 recycled materials.
- 41       e. For each county and each municipality with a population in  
42 excess of 25,000, collect discarded computer equipment, as  
43 defined in G.S. 130A-309.91."



1           **SECTION 3.** G.S. 130A-309.10(f) is amended by adding a new subdivision  
2 to read:

3           "(14) Discarded computer equipment as provided in G.S. 130A-309.96."

4           **SECTION 4.** G.S. 130A-309.10(f1) is amended by adding a new  
5 subdivision to read:

6           "(7) Discarded computer equipment as provided in G.S. 130A-309.96."

7           **SECTION 5.** G.S. 130A-309.14 is amended by adding a new subsection to  
8 read:

9           "(a2) The Department of Administration shall review and revise its bid procedures  
10 and specifications so that the bid procedures and specifications comply with all of the  
11 following requirements:

12           (1) Effective July 1, 2008, all desktop computers, monitors, laptop or  
13 notebook computers, and integrated systems purchased by the State of  
14 North Carolina will meet at least the bronze standard of the federal  
15 Electronic Product Environmental Assessment Tool (EPEAT).

16           (2) Effective July 1, 2011, all desktop computers, monitors, laptop or  
17 notebook computers, and integrated systems purchased by the State of  
18 North Carolina will meet at least the silver standard of the federal  
19 Electronic Product Environmental Assessment Tool (EPEAT).

20           (3) Effective July 1, 2014, all desktop computers, monitors, laptop or  
21 notebook computers, and integrated systems purchased by the State of  
22 North Carolina will meet at least the gold standard of the federal  
23 Electronic Product Environmental Assessment Tool (EPEAT)."

24           **SECTION 6.** G.S. 130A-309.93(b) and G.S. 130A-309.94, as enacted by  
25 Section 1 of this act, become effective January 1, 2008, and apply to sales that occur on  
26 or after that date; G.S. 130A-309.95 and G.S. 130A-309.96, as enacted by Section 1 of  
27 this act, become effective January 1, 2008, and apply to discarded computer equipment  
28 that is recycled at a certified computer recycling facility on or after January 1, 2009;  
29 G.S. 130A-309.93(c), as enacted by Section 1 of this act, becomes effective December  
30 31, 2008, except G.S. 130A-309.93(c)(8) becomes effective January 31, 2010;  
31 G.S. 130A-309.96(2), as enacted by Section 1 of this act, becomes effective January 31,  
32 2010; G.S. 130A-309.102, as enacted by Section 1 of this act, becomes effective April  
33 1, 2010; and G.S. 130A-309.101, as enacted by Section 1 of this act, and Sections 3 and  
34 4 of this act become effective January 1, 2011. The remainder of this act becomes  
35 effective September 30, 2007, except as provided otherwise in G.S. 130A-309.14(a2),  
36 as enacted by Section 5 of this act.