

7.i. Oppose Letters – Members/Caucus

STATE CAPITOL
PO BOX 942849
SACRAMENTO, CA 94249-0005
916) 319-2005
FAX (916) 319-2105

E-MAIL
assemblymember.cox@assembly.ca.gov

Assembly
California Legislature



DAVE COX
ASSEMBLY REPUBLICAN LEADER
FIFTH DISTRICT

DISTRICT OFFICE
4811 CHIPPENDALE DRIVE
SUITE 501
SACRAMENTO, CA 95841
(916) 349-1995
FAX (916) 349-1999

WEBSITE
http://www.assembly.ca.gov/cox

Monday, September 15, 2003

Governor Gray Davis
State Capitol, First Floor
Sacramento, CA 95814

RE: RECOMMENDED VETO OF SB 20 (SHER)

Dear Governor Davis:

This letter serves to memorialize a veto request for Senate Bill 20, which passed the Assembly on September 11, 2003, by a vote of 42 to 29, with 26 members of the Assembly Republican Caucus voting 'No'.

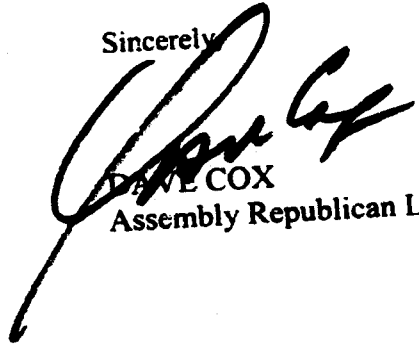
This proposal will enact a comprehensive electronic waste collection and recycling program to be imposed on "hazardous electronic devices" (televisions, computer monitors, and video display devices) sold in the state and requires the phase-out of specified hazardous materials in the manufacture of hazardous electronic devices sold in California. As amended, the proposal enacts a point of sale fee on the first retail sale of specified devices to California purchasers.

The underlying policy question is: Should the Legislature establish a California ONLY program to recycle or phase-out the use of hazardous electronic devices (televisions, computer monitors, video display devices) without regard to the collateral consequences? I think we need to be very mindful of pending federal action and not set the state on a path of conflict with the Federal Government, especially at a time when resources are at a premium.

This is a dramatic proposal with significant long-term consequences on the electronics industry. This bill requires out-of-state manufacturers to pay a hazardous electronics device recycling and recovery fee. Various Supreme Court cases have focused on states' ability to impose the use tax on out-of-state firms making sales to in-state customers. The Board of Equalization has opined that collection is legal but is difficult to enforce. SB 20 would impose the same problem for a "hazardous electronic device" fee. Further, the proposal requires new consumers to completely fund the cleanup of legacy waste and completely ignores the outstanding efforts of companies such as Hewlett-Packard which has invested millions in corporate stewardship by internalizing the costs and exposure of e-waste recycling.

For the reasons stated above, I respectfully request that you veto Senate Bill 20.

Sincerely,



DAVE COX
Assembly Republican Leader

DC: dcn

STATE CAPITOL
PO BOX 942849
SACRAMENTO, CA 94249-0036
(916) 319-2036
FAX (916) 319-2136
DISTRICT OFFICES
747 W LANCASTER BLVD
LANCASTER, CA 93534
(661) 723-3368
FAX (661) 723-6307
VICTORVILLE CITY HALL
14343 CIVIC DRIVE 1ST FLOOR
VICTORVILLE, CA 92392
(760) 843-8045
FAX (760) 843-8396

Assembly California Legislature



SHARON RUNNER
ASSEMBLYWOMAN, THIRTY-SIXTH DISTRICT

COMMITTEES:
APPROPRIATIONS
BUDGET
HOUSING & COMMUNITY
DEVELOPMENT
VETERANS AFFAIRS
SELECT COMMITTEES:
AEROSPACE INDUSTRY
AIRPORTS AND THE
AIRLINE INDUSTRY

September 24, 2003

Honorable Gray Davis
Governor of California
State Capitol
Sacramento, CA

RE: Request for veto of SB 20

Dear Governor Davis:

The Legislature recently sent you Senate Bill 20 (Sher) for consideration. I am writing to request a veto of SB 20.

SB 20 imposes a comprehensive electronic waste collection and recycling program to be imposed on "hazardous electronic devices" (televisions, computer monitors, and video display devices) sold in the state and requires the phase-out of specified hazardous materials in the manufacture of hazardous electronic devices sold in California.

The bill undermines an efficient and equitable environmental approach of shared responsibility. Additionally, the phase out of materials should be based on sound science, feasibility, and safety. The proposed material that SB 20 bans have been developed without a basis on sound risk assessment or evaluation of alternatives and conflict with provisions of SB 20's European "model". The scope of regulated products is also overly broad and ignores critical product category distinctions.

The bill creates a new mandate that overburdens state and local governments, harms consumers, and weakens California's economy by increasing prices for electronic products. The rates and dates for implementation included in the bill are unrealistic and unworkable and place the burdens entirely on the high-tech industry, rather than spreading costs across all parties who benefit from the product. Once again, we are establishing deadlines and targets for diversion that, if history is any indication, cannot, and will not, be met.

California should be pursuing non-legislative options to reduce the number of electronics disposed of in landfills and solid waste management facilities. Such market-based options include, but are not limited to, tax incentives, financial grants, and other cooperative initiatives between industry and states.

This bill has a significant potential for damage to the California electronic device manufacturers. This is an industry that is fundamental to California's economy. It is entirely unclear why the state would further burden an industry that has provided California with so many jobs. At a time when the economy is struggling to dig its way out of a recession increasing taxes within an industry so essential to our economy seems misguided. This proposal is premature and far too prescriptive. I respectfully request your veto of this job-killer legislation.

Sincerely,

Sharon Runner
Assemblywoman, 36th District

7.ii. Oppose Letters – Organizations/Local Gov't

September 17, 2003



The Honorable Gray Davis
Governor – State of California
State Capitol
Sacramento, California 95814

Re: ~~SB 20~~ (Sher) – Electronic Waste & Recycling

Dear Governor Davis:

The American Chemistry Council (ACC), the national trade association representing the leading companies engaged in the business of chemistry and plastics would like to inform you of concerns regarding a specific section of SB 20 (Sher), legislation pertaining to electronic waste and recycling.

By way of background, synthetic fibers, health care products, technology-enhanced agricultural products, protective packaging materials, longer-lasting paints, faster microprocessors, lightweight automobiles, and stronger composite materials in aircraft are only a few of the innovative products of the business of chemistry. In California, our industry has over 1,500 manufacturing facilities, employing nearly 82,000 people and generating almost \$22 billion worth of products.

Our member companies recognize that its products are an integral part of modern electronics. For this very reason, we have supported extensive research into the recovery of obsolete electronic products – especially plastic components – long before managing end-of-life electronics became a recognized waste management issue. Our primary concern centers on the inclusion of language that would prohibit the sale of specific electronic devices that are prohibited from sale pursuant to Directive 2002/95/EC, as adopted by the European Parliament and the Council of the European Union. In our opinion, adopting by reference a European directive as California law establishes a troubling precedent. By doing so, SB 20 restricts the involvement of all stakeholders by limiting their ability to work through an open, transparent and participatory process in establishing a regulatory program. The U.S. government, the California Legislature or any regulatory agency should not abdicate its responsibility to craft policy by simply transferring such decision-making to a foreign government.

For this reason, we would encourage you to consider the troubling precedent that would be established should SB 20 become law with this language included. To that end, we would suggest that you include – should you sign SB 20 into law - a notation requesting the Legislature enact legislation in 2004 to delete any references to a program or policy established by the European Union or any foreign government.



Responsible Care®

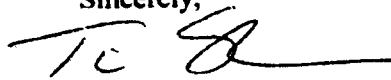
1121 L Street, Suite 910, Sacramento, CA 95814 • Tel 916-448-2581 • Fax 916-442-2449 • <http://www.americanchemistry.com>

The Honorable Gray Davis
September 17, 2003
Page 2

If the sponsors of this bill intend to enact provisions similar to those adopted in Europe, than a formal process should be established here in California by the appropriate regulatory agency so that all stakeholders can be afforded an opportunity to participate.

Should you or your staff have any questions or comments, please do not hesitate to contact our office. Thank you for considering our views.

Sincerely,



Tim Shestek
Director, State & Local Public Affairs
American Chemistry Council

cc: The Honorable Byron Sher
Mr. Ralph Heim, Public Policy Advocates

without a prudent cap, the board and those in the recycling business have little if any incentive to increase the efficiencies of the programs. This responsibility should be that of the Legislature.

AeA respectfully requests a VETO on SB 20.

Signed,

A handwritten signature in cursive script that reads "Roxanne Gould".

Roxanne Gould
Vice President, California Legislative and Public Affairs

CALIFORNIA BUSINESS ROUNDTABLE

Aetna
AKG SunAmerica Inc.
AT&T
Auto Club of So Cal
Avery Dennison Corp
Ban & Company
Bank of America, California
Bechtel Group, Inc.
Blue Shield of California
The Boeing Company
C.J. Segerstrom & Sons
California Bank & Trust
Calpine Corporation
Casellus Development Corp.
Chevron/Tesaco Corp.
Citigroup
CMF Inc.
Comesant Systems, Inc.
DHL Worldwide Express
Edison International
Farmers Group, Inc.
Fluor Corporation
Gap Inc.
Granite Construction, Inc.
HealthNet, Inc.
Hewlett-Packard Co.
Homestore.com, Inc.
The Irvine Company
J.G. Boswell Company
The J. Paul Getty Trust
Kaiser Foundation Health Plans
KB Home
Levi Strauss and Co.
McKinsey & Co.
Merriam Corp.
Mirant California, LLC
Newhall Land
Occidental Petroleum Corporation
Pacific Life Insurance Co.
Pardee Homes
PG&E Corp.
Provident Financial Corporation
Reliant Resources
The Ryland Group, Inc.
SAIC
Salway Inc.
SBC
Sempra Energy
State Farm Insurance Co.
Sutter Health
Target Corporation
Unified Western Grocers, Inc.
Union Bank of California
Verizon
Washington Mutual
Wellpoint
Wells Fargo & Company

September 23, 2003

Honorable Gray Davis
Governor, State of California
State Capitol Building, First Floor
Sacramento, California 95814

RE: SB 20 (SHER) - REQUEST FOR VETO

Dear Governor Davis:

On behalf of the members of the California Business Roundtable, I write to inform you of our strong opposition to SB 20 (Sher) and urge you to veto the measure.

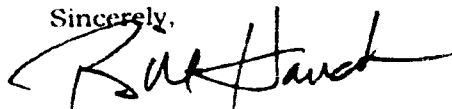
Our members acknowledge the need for the proper recycling of electronic waste and are committed to implementing the most environmentally sound and feasible practices in the nation with regard to environmental management and control. For example, Hewlett Packard Company has invested millions of dollars in state-of-the-art recycling facilities that recycle approximately 6.5 million pounds of used electronic products worldwide each month. While we applaud the goal of enacting legislation to promote the recycling of used electronics, the provisions in SB 20 lack the flexibility needed to encourage these types of innovative and successful recycling programs and will instead act as a deterrent to doing business in California.

If SB 20 becomes law it will put a select sector of California businesses at a disadvantage with out-of-state competitors that sell into California through the internet. By making these businesses less competitive, we will damage their ability to produce jobs and economic growth in the state.

Before making a decision on this measure, we ask that you fully examine the impact this legislation will have, not only on the environment, but on the state's business climate. After doing so we hope you will conclude that this measure is not yet ready to become law.

For these reasons, the California Business Roundtable respectfully requests that you veto SB 20.

Sincerely,



WILLIAM HAUCK
President

cc: Honorable Byron Sher
Marie Moretti, Office of the Governor
Cassie Gilson, Office of the Governor

Richard M. Kowalewski
R. William Hauck

Richard M. Kowalewski
R. William Hauck

1215 F Street, Suite 1570
Sacramento, CA 95814

916.553.1195
916.553.4097 (fax)



CALIFORNIA CHAMBER of COMMERCE

September 18, 2003

Governor Gray Davis
State of California
State Capitol, First Floor
Sacramento, CA 95814

**RE: SB 20 (SHER): SOLID WASTE
REQUEST FOR VETO**

Dear Governor Davis:

The California Chamber of Commerce requests your **VETO** on **SB 20 (Sher)** that would create a television and computer monitor tax upon sale of these products to pay for a new state recycling program.

This bill mandates that California law be subject to regulations adopted by the European Union and mandates manufacturers report product sales, product designs and product contents to the state. SB 20 also gives the Department of Toxic Substances Control authority over the exportation of materials from California.

There is no guarantee that California tax collectors will be able to enforce this law on Internet sales. While it is likely that many responsible companies will choose to collect and remit this fee to the state, there is still concern that some significant portion of sales will not have remitted this fee. If this is the case, it places California based manufacturers at a competitive disadvantage.

Additionally, SB 20 actually cedes California regulatory authority to the European Union (EU) by requiring the Department of Toxic Substances Control to adopt product bans mirroring an EU directive. As you are aware, the United States is engaged in numerous trade disputes with the EU over product bans, tariffs on the importation of products, and other protectionist directives from the EU. California should not make itself party to international trade disputes by siding with foreign powers- nor should we ban the importation of American made products into California.

For these reasons, the California Chamber of Commerce respectfully requests your **VETO** on **SB 20 (Sher)**.

Sincerely,

Charles Bacchi, Legislative Advocate
Environment & Workers' Compensation

cc: The Honorable Byron Sher

5215
CALIFORNIA
MANUFACTURERS
& TECHNOLOGY

September 24, 2003

The Honorable Gray Davis
Governor of California
California State Capitol
Sacramento, CA 95814

Subject: SB 20 (Sher) E-Waste
Position: VETO REQUEST

Dear Governor Davis:

SB 20 imposes a recycling fee on all sales of certain electronic equipment in California. However, the payment of the fee by out-of-state sellers would be voluntary only – the state will not legally be able to enforce the payment on sales over the internet from sellers with no "nexus" in the state, for example. This puts California sellers at a competitive disadvantage, threatening their market share and California jobs. The competitive threat to California sellers is compounded by the fact that the fee can be raised without further legislation.

The bill acknowledges this flaw and attempts to address it by halting the collection of the fee if a court finally decides, after all appeals are exhausted, that it cannot be legally collected from out-of-state sellers. This provision is insufficient, however, because the damage to in-state sellers will by that time already be done. SB 20 requires collection of the fee to commence July 1, 2004 and a final court decision would not occur until much later.

Losses to California manufacturers and sellers could be avoided if collection of the fee is stayed during the course of appeals or if the effective date of fee collection begins only after a final court decision. Neither of these alternatives is available under SB 20.

CMTA urges you to veto SB 20 and instead ask for a bill that provides a level playing field for California manufacturers and sellers competing with out-of-state companies for sales in the state.

Thank you for your consideration of this request.

Sincerely,


Dorothy Rothrock
Vice President, Government Relations

cc: Senator Byron Sher



Amyrton Atlanta Chicago Düsseldorf Dallas Denver Detroit Frankfurt Geneva Hong Kong London Los Angeles Madrid Mexico City Milan Munich New York Paris Rome Sacramento Seoul Singapore Taipei Tokyo Toronto Washington, DC

5214
4350 North Fairfax Drive, Suite 440
Arlington, VA 22203-1624
Tel (703) 812-1333
Fax (703) 812-1337
publicpolicy@comptia.org

September 24, 2003

The Honorable Gray Davis
Governor of California
State Capitol, First Floor
Sacramento, CA 95814

SUBJECT: Senate Bill 20 – VETO REQUEST – Hazardous Electronic Waste

Dear Governor Davis:

On behalf of the Computing Technology Industry Association (CompTIA), I am writing to urge your veto of Senate Bill 20, which proposes a state-mandated recycling program for specified electronic devices.

CompTIA represents over 15,000 members worldwide in the converging computing and communications market. In California alone, CompTIA has over 600 members that will likely be affected by Senate Bill 20, including Gateway which has over 1,000 employees and 28 retail stores across California, and has its corporate headquarters in Poway, CA. Our members also include computer hardware and software manufacturers, resellers, distributors, retailers, system integrators, training, service, recyclers, donation organizations, telecommunications and Internet Service Providers.

CompTIA supports efforts to increase the recycling of electronic devices. It also supports incentives and educational programs to encourage both consumers and businesses to re-use and recycle its products. Currently, voluntary recycling programs are being run through successful partnerships with manufacturers, recyclers, state and local governments and retailers, among others. These voluntary partnerships are developing with the goal of handling the electronic waste problem and should be promoted before the Legislature adopts the draconian provisions of Senate Bill 20.

Senate Bill 20 would have an adverse economic impact on CompTIA members, both large and small, and the consumers of their products. These concerns include the following:

1. **Unlimited Fee on Consumers:** SB 20 provides a set fee (\$6, \$8, and \$10 depending upon screen size) for consumer purchases between July 1, 2004 and July 1, 2005. Subsequent to July 1, 2005 the consumer fee collected at the retail point-of-sale will be determined by the regulators (IWMB and DTSC) based upon vague and ambiguous standards that contain no limit on the fee collected from the consumer at the point of retail sale.

The criteria to adjust the set fee are contained in subdivisions (1) and (2) of subdivision (c) of Section 42464 which discuss the "sufficiency... of revenues in the account to fund the collection, consolidation, and recycling of 100% of the covered electronic waste that is projected to be recycled in the state" and to

The Honorable Gray Davis
Governor of California
SB 20 – VETO REQUEST
September 24, 2003
Page 2

"administer, enforce and promote the program." What criteria will be used to project anticipated recycling? Certainly, an inaccurate projection will have a significant impact on the fee amount paid by the consumer in any given year. Furthermore, when read in conjunction with Section 42477, the payments made to recyclers of covered electronic devices are required to be paid in an amount "to cover the net cost for an authorized collector to operate a free and convenient system for collecting, consolidating and transporting covered electronic waste generated in this state." What criteria will be used to determine the "net" cost incurred by an authorized collector? Because each authorized collector will have a different and specific cost basis, the range of costs and economic models will vary greatly.

An analogous concept called a "processing fee" is contained in the California Beverage Container Recycling and Litter Reduction Act. This highly controversial concept requires over 200 PY's (personnel years) to administer at the Department of Conservation and an annual calculation of numerous variables. As opposed to bottles and cans, the vastly more complex universe of covered electronic devices will likely be an administrative nightmare.

Therefore, because there are no checks and balances on the fee and no limit on the amount of the fee paid by a consumer at the point of retail sale for the purchase of "covered electronic devices" on and after July 1, 2005, a significant fee increase would likely result in considerable adverse consumer sentiment and result in a potential reduction in sales.

2. **Linked to Not-Yet-Finalized EU Standards:** SB 20 prohibits the sale of a covered electronic device that is prohibited from being sold or offered for sale in the European Union due to the presence of certain heavy metals.

Why is California linking its electronic waste recycling program to the European Union -- especially when their standards are not yet finalized and have not been tested since they have yet to be implemented? The United States currently has an ongoing and focused dialogue under the auspices of the National Electronic Product Stewardship Initiative (NEPSI) that is developing recommendations and solutions based upon the needs of our country. In fact, NEPSI is meeting this week in Chicago to review their recommendations that are to be put into an action plan in December. Rather than adopt yet to be finalized European standards, California should work toward developing a uniform nationwide solution, which allows each state to work within such a framework.

3. **SB 20 too Broad in Scope:** SB 20 contains an overly broad definition that will likely include many products unintended for inclusion. The term "covered electronic device" means a "cathode ray tube, cathode ray tube device, flat-panel screen, or any other similar video display device with a screen size that is greater than 4 inches in size measured diagonally in which the department determines, when discarded or disposed, would be a hazardous waste."

The Honorable Gray Davis
Governor of California
SB 20 - VETO REQUEST
September 24, 2003
Page 3

Although there is a limited exclusion for commercial and industrial specialty equipment, the overly broad definition will have the unintended consequence of including various analytical devices that incorporate a video display as a component of a much larger device. This definition will cause substantial confusion in the marketplace and could include many consumer electronic products that were unintended by the Legislature. With the four-inch parameter, scanners, printers, PDAs, and fax machines could now be included. This overly broad definition could include many devices that were not intended to be captured by the bill.

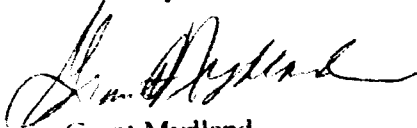
4. **Fails to Provide Grants to Refurbish and Reuse:** SB 20 does not contain a provision to permit grants to nonprofit agencies for the purpose of "refurbishing or recycling" of covered electronic devices. From any environmental perspective, the concept of reuse is at the top of the hierarchy of environmental goals and should be vigorously promoted. This language was contained in earlier versions of the bill, but is not contained in the enrolled version on your desk for consideration.

In our opinion, nonprofit groups like the Cristina Foundation and Computers for Schools have been leaders in refurbishing and providing computers for secondary use in thousands of schools throughout the country. We consider it a fundamental flaw that grant authority to nonprofit agencies is not included in this legislation, and will thereby prevent thousands of students and teachers from accessing critical computer education tools.

5. **Harms "White Box" Solution Providers:** CompTIA is particularly concerned about the impact of Senate Bill 20 on the segment of small businesses referred to as "white box solution providers." A white-box product is defined as a desktop PC, workstation, or PC server that is primarily assembled by a reseller, distributor or manufacturer focused on the nonbranded market. This white-box market currently accounts for 21% of the total PC market. Given the narrow margins under which the white box manufacturers operate, the fee to be imposed under Senate Bill 20 will be a significant burden to these small business manufacturers and their customer base.

Therefore, CompTIA respectfully requests that you veto Senate Bill 20 and once again request that the Legislature enact a more balanced and consumer friendly electronic waste recycling statute for your consideration. As always, CompTIA stands ready to assist you and the California Legislature in addressing the challenges of the electronic device recycling and reuse.

Sincerely,



Grant Mydland
Director of State Government Relations and Grassroots Programs

cc: Senator Byron Sher
Senator Gloria Romero