

BILL ANALYSIS

SENATE RULES COMMITTEE Office of Senate Floor Analyses 1020 N Street, Suite 524 (916) 445-6614 Fax: (916) 327-4478	SB 20
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UNFINISHED BUSINESS

Bill No: SB 20
 Author: Sher (D), et al
 Amended: 9/9/03
 Vote: 21

SENATE ENV. QUALITY COMMITTEE : 5-1, 5/12/03
 AYES: Sher, Chesbro, Figueroa, Kuehl, Romero
 NOES: Denham

SENATE APPROPRIATIONS COMMITTEE : 8-5, 5/29/03
 AYES: Alpert, Bowen, Burton, Escutia, Karnette, Machado,
 Murray, Speier
 NOES: Battin, Aanestad, Ashburn, Johnson, Poochigian

SENATE FLOOR : 25-13, 6/4/03
 AYES: Alarcon, Alpert, Bowen, Burton, Cedillo, Chesbro,
 Ducheny, Dunn, Escutia, Figueroa, Florez, Karnette,
 Kuehl, Machado, McPherson, Murray, Perata, Romero, Scott,
 Sher, Soto, Speier, Torlakson, Vasconcellos, Vincent
 NOES: Aanestad, Ackerman, Ashburn, Battin, Brulte, Denham,
 Hollingsworth, Knight, Margett, McClintock, Morrow,
 Oller, Poochigian
 NO VOTE RECORDED: Johnson Ortiz

SUBJECT : Solid waste: hazardous electronic waste

SOURCE : Author

DIGEST : This bill enacts the Electronic Waste Recycling
 Act of 2003 to provide for the convenient recycling of
 covered electronic devices in California.

CONTINUED

SB 20
 Page

2

Assembly amendments make significant changes to many
 provisions of the bill, however, the intent remains the
 same.

ANALYSIS : This bill:

- States Legislative intent that the program is to provide sufficient funding for the safe, cost-free, and convenient collection and recycling of 100 percent of the covered electronic waste discarded or offered for recycling in the state, to eliminate electronic waste stockpiles and legacy devices by December 31, 2007, and to end the illegal disposal of covered electronic devices, to establish manufacturer responsibility for reporting to the California Integrated Waste Management Board (CIWMB) on the manufacturer's efforts to phase out hazardous materials in electronic devices and increase the use of recycled materials.
- Provides that the State Department of Toxic Substances Control (DTSC) may, by regulation, establish management standards on the management of electronic waste that the DTSC determines is hazardous or if the Federal Government authorizes an alternative management standard for electronic waste.
- Defines "covered electronic device" as a cathode ray tube, cathode ray tube device, flat panel screen, or any other video display device with a screen size that is greater than four inches in size measured diagonally and which, when discarded or disposed, would be a hazardous waste under regulations set by the DTSC.
- Defines "Consumer" as including business, corporation, limited partnership, non-profit organization, or governmental entity except a wholesale transaction

between a distributor and retailer.

5. Defines "authorized collector" as any of the following:

A. A city, county or district that collects covered electronic devices.

SB 20
Page

3

B. A person or entity that is required or authorized by a city, county, or district to collect covered electronic devices.

C. A non-profit organization that collects or accepts covered electronic devices.

D. A manufacturer that collects, consolidates, and transports covered electronic devices for recycling from consumers, businesses, institutions, and other generators.

E. Any entity that collects, handles, consolidates, and transports covered electronic devices.

1. Requires DTSC to adopt regulations that prohibit an electronic device from being sold or offered for sale if the electronic device is prohibited from being sold or offered for sale in the European Union, as specified.

Provides that the regulations shall take effect January 1, 2007; or, on or after the date the European Union directive is adopted, as specified.

2. On and after July 1, 2004, imposes an electronic waste recycling fee upon the purchase of an electronic device by a consumer from a retailer in the following amounts:

A. Six dollars (\$6) for each electronic device with a screen size of less than 15 inches measured diagonally.

B. Eight dollars (\$8) for each electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.

C. Ten dollars (\$10) for each electronic device with a screen size greater than or equal to 35 inches measured diagonally.

1. Provides that CIWMB, in collaboration with DTSC, shall review and adjust the Fee at least every two years in a public hearing.

SB 20
Page

4

2. Requires CIWMB, in collaboration with DTSC, to base any Fee adjustments on the following factors:

A. The sufficiency, and any surplus, of revenues in the account to fund the collection, consolidation, and recycling of 100 percent of the covered electronic waste that is projected to be recycled in the state.

B. The sufficiency of revenues in the account.

1. Prohibits on and after July 1, 2004, the sale of covered electronic devices to consumers unless the CIWMB or DTSC determines that the manufacturer of the covered electronic device demonstrates compliance with the act.

2. Prohibits on and after January 1, 2005, the sale of covered electronic devices that are not labeled with the name of the manufacturer or the manufacturer brand label that is readily visible.

3. Prohibits on and after July 1, 2005, manufacturers of electronic devices to annually submit a report to CIWMB that includes the following information:

A. An estimate of the number of covered electronic devices sold by the manufacturer in the state during the previous year.

- B. A baseline or set of baselines that show the amount of hazardous materials used in the manufacture of electronic devices by the manufacturer in that year and the reduction in the use of those hazardous materials from the previous year.
- C. A baseline or set of baselines that show the amount of recycled materials used in the manufacture of electronic devices by the manufacturer in that year and the increase in the use of those recycled materials from the previous year.
- D. A baseline or set of baselines that describe any efforts to design covered electronic devices for recycling and goals and plans for further increasing design for recycling.

SB 20
Page

5

1. Requires manufacturers to make information available to consumers that describes where and how to return, recycle, and dispose of the covered electronic devices and opportunities and locations for the collection or return of the covered electronic devices and provides information to consumers on the electronic waste recycling fee.
2. Requires on and after April 1, 2004, manufacturers to inform retailers if a covered electronic device sold by that manufacturer is subject to the recycling fee under the act.
3. Provides that the imposition of the fee is a matter of statewide importance and preempts local agencies from enacting similar fees, but provides that local agencies may adopt, implement or enforce local ordinances, resolutions, regulations or rules governing curbside or drop off recycling programs.
4. Authorizes CIWMB to impose administrative civil penalties of up to \$2,500 per violation, and to seek civil penalties of up to \$5,000 per violation for each sale of a covered electronic device for which a covered electronic waste recycling fee has been paid.
5. Provides that the act may be enforced by the DTSC.
6. Establishes procedures for CIWMB and DTSC to administer the act.
7. Provides that CIWMB and DTSC may adopt emergency regulations that are necessary to implement the act and any other regulations DTSC deems necessary enforce the act.
8. Requires CIWMB, in collaboration with DTSC, to convene an electronic waste working group comprised of representatives from manufacturers of electronic devices and other interested parties to develop and, by July 1, 2005, advise CIWMB and State and Consumer Agency on environmental purchasing criteria that may be used by state agencies to identify electronic devices with

SB 20
Page

6

- reduced environmental impacts.
9. Requires CIWMB to annually establish, and update as necessary, statewide recycling goals for covered electronic waste.
 10. Provides that any statewide goals for electronic waste recycling do not authorize the CIWMB or DTSC to establish any recycling rates or dates by which a manufacturer must comply or impose any other goal or target upon a manufacturer.
 11. Requires CIWMB to annually report to the Legislature and the public, and post on its web site, the amount of covered electronic devices sold in the state in the previous year.

12. Requires CIWMB to annually report to the Legislature and the public on the amount of covered electronic devices recycled in the state in the previous year.
13. Establishes the Electronic Waste Recovery and Recycling Account, within the Integrated Waste Management Account into which Fee or penalty revenues shall be deposited, and specifies how those funds may be spent by DTSC and CIWMB.
14. Provides that CIWMB and DTSC may spend funds in the account to:
 - A. Make electronic waste recovery payments to authorized collectors.
 - B. Make electronic waste recycling payments to covered electronic waste recyclers.
 - C. Provide for administrative costs of CIWMB and DTSC.
 - D. Provide funding to DTSC to implement the act and any regulations adopted by DTSC to implement the act.
1. Provides that CIWMB may use no more than one percent of the funds annually deposited into the Account for a public information program to educate the public.

SB 20
Page

7

2. Provides that CIWMB may not provide funds for electronic devices unless the materials will be handled in compliance with all statutes and regulations regarding the export of hazardous wastes.
3. Requires any person intending to export a covered electronic waste to a foreign destination to 60 days prior to the export:
 - A. Notify DTSC of the destination, contents, and volume of covered electronic waste to be exported.
 - B. Demonstrate that any applicable law or regulation of the country of destination does not prohibit the importation of covered electronic waste.
 - C. Demonstrate that the export is conducted only in accordance with international law.
 - D. Demonstrate that the management of the exported covered electronic will be handled within the country of destination in accordance with applicable rules adopted by the Organization for Economic Cooperation and Development for the environmentally sound management of electronic waste.
 - E. Demonstrate that the covered electronic waste is being exported for the purpose of reuse or recycling.
 - F. Provides that these conditions do not apply to component parts of a covered electronic device that are exported to an authorized collector or recycler and that are reused or recycled into new electronic components.
1. Requires that CIWMB, in collaboration with DTSC, on and after July 1, 2004, and on July 1 every two years thereafter, shall establish an electronic waste recovery payment schedule for electronic waste generated to cover the net cost for an authorized collector to operate a free and convenient system for collecting, consolidating and transporting electronic waste.

SB 20
Page

8

2. Requires that CIWB, in collaboration with DTSC, on and after January 1, 2004, and on January 1 every two years thereafter, shall establish an electronic waste recycling payment schedule to cover an electronic waste recycler's net cost to receive, process, and recycle an electronic device from an authorized collector.

3. Provides that CIWMB shall make electronic recycling recovery payments and electronic waste recycling payments for the collection and recycling of covered electronic waste to an authorized collector or covered electronic waste recycler upon receipt of a completed and verified invoice submitted to the recycler by the authorized collector in the form and manner determined by the CIWMB.
4. Requires electronic waste recyclers to certify to CWIMB that the electronic waste recycler is in compliance with specified requirements.
5. Prohibits state agencies from procuring hazardous electronic devices unless the manufacturer demonstrates compliance with the aforementioned provisions.
6. Provides that CIWMB shall not implement the bill's provisions if a federal law is enacted that meets similar standards to those provided under the bill, or if a court enters a final judgement that holds that the fee imposed on manufacturers under the bill is not applicable to out-of-state manufacturers.
7. Makes findings and declarations relative to electronic waste products, and defines specified terms used in the bill.

Comments

According to the author's office, this measure is intended to ensure that electronic waste (commonly referred to as E-waste), are properly collected, recycled, refurbished, or disposed. The author notes that, in recent months, E-waste has become a significant environmental hazard and concern to environmental groups, the press, and the general public. Yet, state government has no program that addresses this

SB 20
Page

9

segment of the waste stream. The purpose of this measure is to establish a program to promote the efficient and cost-effective collection and processing of E-waste to ensure that they do not pose a threat to public health and the environment.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes
Local: Yes

According to Assembly Appropriations Committee, the bill will have moderate costs, perhaps \$250,000 annually from FY 2004-05 through FY 2007-08, to the DTSC to adopt regulations, moderate costs, perhaps \$300,000 in FY 2003-04 and \$2 million annually thereafter, to the CIWMB, and potentially substantial revenue, perhaps tens of millions of dollars annually, to the CIWMB to cover its costs of administering the consumer electronics recovery process, to cover the DTSC's related costs, and to provide financial incentives and other subsidies to recyclers, local governments, and manufacturers.

SUPPORT : (Verified 7/8/03 per Assembly Environmental Safety and Toxic Materials Committee) (unable to reverify at time of writing)

Californians Against Waste (source)
Alameda County Waste Management Authority
Alameda County Source Reduction and Recycling Board
As You Sow
California Democratic Party Environmental Caucus
California League of Conservation Voters
California Nurses Association
California Resource Recovery Association
California State Association of Counties
Center for Community Action and Environmental Justice
Central Contra Costa Solid Waste Authority
City of Alhambra
City of American Canyon
City of Arcadia
City of Arcata
City of Baldwin Park
City of Benicia
City of Capitola
City of Chico

SB 20

Page

10

City of Costa Mesa
 City of Cupertino
 City of Daly City
 City of Del Rey Oaks
 City of Downey
 City of Emeryville
 City of Eureka
 City of Fairfield
 City of Fremont
 City of Glendale
 City of Indio
 City of Lemon Grove
 City of Lompoc
 City of Manhattan Beach
 City of Millbrae
 City of Morgan Hill
 City of Morro Bay
 City of Pico Rivera
 City of Poway
 City of San Diego
 City of San Jose
 City of San Mateo
 City of Sand City
 City of Santa Ana
 City of Santa Barbara
 City of Santa Cruz
 City of Scotts Valley
 City of Shelton
 City of Sonoma
 City of Sunnyvale
 City of Thousand Oaks
 City of Westlake Village
 City/County of San Francisco
 City/County Association of Governments of San Mateo
 Clean Water Action
 Community Environmental Council
 Congress of California Seniors
 Consumer Attorneys
 County of Alameda
 County of Marin
 County of Monterey
 County of Napa
 County of Sacramento
 County of Santa Clara

SB 20
 Page

11

County of Santa Cruz
 County of Trinity
 Del Norte Solid Waste Management Authority
 Ecology Center
 Electronic Manufacturers Coalition for Responsible
 Recycling (if amended) Environmental Entrepreneurs (E2)
 Global Recycling Council
 Governmental Advocates
 HMR Los Angeles
 HMR San Francisco
 Humboldt WMA
 League of California Cities
 Marin County Hazardous and Solid WM JPA
 MBA Polymers, Inc.
 Mojave Desert and Mountain Recycling JPA
 Monterey Regional Waste Management District
 Natural Resources Defense Council
 Northern California Recycling Association
 OSS-Spectrum
 Palo Verde Valley Disposal Service
 Planning and Conservation League
 Price Consulting
 Salinas Valley Solid Waste Authority
 San Luis Obispo County IWMA
 Sisters of Mercy of the Americas
 Sisters of Notre Dame de Namur
 SoCal Computer Recyclers, Inc.
 Solid Waste Association of North America
 Sonoma County WMA
 Town of Atherton
 Tracy Material Recovery and Solid Waste Transfer, Inc.
 Urban Corps of San Diego
 VALCORE Recycling
 Waste Management
 West Contra Costa IWMA
 Numerous individuals

OPPOSITION : (Verified 7/8/03 per Assembly Environmental
 Safety and Toxic Materials Committee) (unable to reverify
 at time of writing)

American Electronics Association

Appliance and Refrigeration Institute
Association of Home Appliance Manufacturers

SB 20
Page

_____ 12

California Chamber of Commerce
California Manufacturers and Technology Association
Electronic Industries Alliance
Gas Appliance Manufacturers Association
National Electrical Manufacturers Association
Portable Rechargeable Battery Association
Whirlpool Corporation

CP:s1 9/10/03 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

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