

SECOND REGULAR SESSION

# SENATE BILL NO. 895

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CLEMENS.

Pre-filed December 19, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3369S.011

## AN ACT

To amend chapter 260, RSMo, by adding thereto fourteen new sections relating to recycling of computer equipment.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 260, RSMo, is amended by adding thereto fourteen  
2 new sections, to be known as sections 260.1050, 260.1053, 260.1059, 260.1062,  
3 260.1065, 260.1068, 260.1071, 260.1074, 260.1077, 260.1080, 260.1083, 260.1089,  
4 260.1092, and 260.1101, to read as follows:

**260.1050. Sections 260.1050 to 260.1101 may be cited as the**  
2 **"Manufacturer Responsibility and Consumer Convenience Computer**  
3 **Equipment Collection and Recovery Act".**

**260.1053. As used in sections 260.1050 to 260.1101, the following**  
2 **terms mean:**

3 (1) "Brand", the name, symbol, logo, trademark, or other  
4 information that identifies a product rather than the components of the  
5 product;

6 (2) "Computer equipment", a desktop or notebook computer and  
7 includes a computer monitor or other display device that does not  
8 contain a tuner;

9 (3) "Consumer", an individual who uses computer equipment that  
10 is purchased primarily for personal or home business use;

11 (4) "Department", department of natural resources;

12 (5) "Manufacturer", a person:

13 (a) Who manufactures or manufactured computer equipment  
14 under a brand that:

15 a. The person owns or owned; or

16 b. The person is or was licensed to use, other than under a

17 license to manufacture computer equipment for delivery exclusively to  
18 or at the order of the licensor;

19 (b) Who sells or sold computer equipment manufactured by  
20 others under a brand that:

21 a. The person owns or owned; or

22 b. The person is or was licensed to use, other than under a  
23 license to manufacture computer equipment for delivery exclusively to  
24 or at the order of the licensor;

25 (c) Who manufactures or manufactured computer equipment  
26 without affixing a brand;

27 (d) Who manufactures or manufactured computer equipment to  
28 which the person affixes or affixed a brand that:

29 a. The person does not or has not owned; or

30 b. The person is not or was not licensed to use; or

31 (e) Who imports or imported computer equipment manufactured  
32 outside the United States into the United States unless at the time of  
33 importation the company or licensee that sells or sold the computer  
34 equipment to the importer has or had assets or a presence in the  
35 United States sufficient to be considered the manufacturer;

36 (6) "Television", any telecommunication system device that can  
37 receive moving pictures and sound broadcast over a distance and  
38 includes a television tuner or a display device peripheral to a computer  
39 in which the display device contains a television tuner.

260.1059. 1. The collection, recycling, and reuse provisions of  
2 sections 260.1050 to 260.1101 apply to computer equipment used and  
3 returned to the manufacturer by a consumer in this state and do not  
4 impose any obligation on an owner or operator of a solid waste facility.

5 2. Sections 260.1050 to 260.1101 do not apply to:

6 (1) A television, any part of a motor vehicle, a personal digital  
7 assistant, or a telephone;

8 (2) A consumer's lease of computer equipment or a consumer's  
9 use of computer equipment under a lease agreement; or

10 (3) The sale or lease of computer equipment to an entity when  
11 the manufacturer and the entity enter into a contract that effectively  
12 addresses the collection, recycling, and reuse of computer equipment  
13 that has reached the end of its useful life.

260.1062. 1. Before a manufacturer may offer computer

2 equipment for sale in this state, the manufacturer shall:

3 (1) Adopt and implement a recovery plan;

4 (2) Submit a written copy of the recovery plan to the department;

5 and

6 (3) Affix a permanent, readily visible label to the computer  
7 equipment with the manufacturer's brand.

8 2. The recovery plan shall enable a consumer to recycle  
9 computer equipment without paying a separate fee at the time of  
10 recycling and shall include provisions for:

11 (1) The manufacturer's collection from a consumer of any  
12 computer equipment that has reached the end of its useful life and is  
13 labeled with the manufacturer's brand; and

14 (2) Recycling or reuse of computer equipment collected under  
15 subdivision (1) of this subsection.

16 3. The collection of computer equipment provided under the  
17 recovery plan shall be:

18 (1) Reasonably convenient and available to consumers in this  
19 state; and

20 (2) Designed to meet the collection needs of consumers in this  
21 state.

22 4. Examples of collection methods that alone or combined meet  
23 the convenience requirements of this section include a system:

24 (1) By which the manufacturer or the manufacturer's designee  
25 offers the consumer an option for returning computer equipment by  
26 mail at no charge to the consumer;

27 (2) Using a physical collection site that the manufacturer or the  
28 manufacturer's designee keeps open and staffed and to which the  
29 consumer may return computer equipment; and

30 (3) Using a collection event held by the manufacturer or the  
31 manufacturer's designee at which the consumer may return computer  
32 equipment.

33 5. Collection services under this section may use existing  
34 collection and consolidation infrastructure for handling computer  
35 equipment and may include systems jointly managed by a group of  
36 manufacturers, electronic recyclers and repair shops, recyclers of other  
37 commodities, reuse organizations, not-for-profit corporations, retailers,  
38 recyclers, and other suitable operations. If a manufacturer or its

39 designee offers a mail-back system as described in subsection 4 of this  
40 section, either individually or by working together with a group of  
41 manufacturers or by working with others, it shall be deemed to meet  
42 the convenience requirements of this section.

43         6. The recovery plan shall include information for the consumer  
44 on how and where to return the manufacturer's computer  
45 equipment. The manufacturer:

46             (1) Shall include collection, recycling, and reuse information on  
47 the manufacturer's publicly available Internet site;

48             (2) Shall provide collection, recycling, and reuse information to  
49 the department; and

50             (3) May include collection, recycling, and reuse information in  
51 the packaging for or in other materials that accompany the  
52 manufacturer's computer equipment when the equipment is sold.

53         7. Information about collection, recycling, and reuse on a  
54 manufacturer's publicly available Internet site does not constitute a  
55 determination by the department that the manufacturer's recovery plan  
56 or actual practices are in compliance with sections 260.1050 to 260.1101  
57 or other state or federal law.

58         8. Each manufacturer shall submit a report to the department  
59 not later than January thirty-first of each year that includes:

60             (1) The weight of computer equipment collected, recycled, and  
61 reused during the preceding calendar year; and

62             (2) Documentation certifying that the collection, recycling, and  
63 reuse of computer equipment during the preceding calendar year was  
64 conducted in a manner that complies with section 260.1089 regarding  
65 sound environmental management.

66         9. If more than one person is a manufacturer of a certain brand  
67 of computer equipment as defined by section 260.1053, any of those  
68 persons may assume responsibility for and satisfy the obligations of a  
69 manufacturer under sections 260.1050 to 260.1101 for that brand. If  
70 none of those persons assumes responsibility or satisfies the obligations  
71 of a manufacturer for the computer equipment of that brand, the  
72 department may consider any of those persons to be the responsible  
73 manufacturer for purposes of sections 260.1050 to 260.1101.

74         10. The obligations under sections 260.1050 to 260.1101 of a  
75 manufacturer who manufactures or manufactured computer equipment,

76 or sells or sold computer equipment manufactured by others, under a  
77 brand that was previously used by a different person in the  
78 manufacture of the computer equipment extends to all computer  
79 equipment bearing that brand regardless of its date of manufacture.

260.1065. 1. A person who is a retailer of computer equipment  
2 shall not sell or offer to sell new computer equipment in this state  
3 unless the equipment is labeled with the manufacturer's label and the  
4 manufacturer is included on the department's list of manufacturers  
5 that have recovery plans.

6 2. Retailers can go to the department's Internet site as outlined  
7 in section 260.1071 and view all manufacturers that are listed as having  
8 registered a collection program. Covered electronic products from  
9 manufacturers on that list may be sold in or into this state.

10 3. A retailer is not required to collect computer equipment for  
11 recycling or reuse under sections 260.1050 to 260.1101.

260.1068. 1. A manufacturer or retailer of computer equipment  
2 is not liable in any way for information in any form that a consumer  
3 leaves on computer equipment that is collected, recycled, or reused  
4 under sections 260.1050 to 260.1101.

5 2. The consumer is responsible for any information in any form  
6 left on the consumer's computer equipment that is collected, recycled,  
7 or reused.

8 3. Compliance with sections 260.1050 to 260.1101 does not exempt  
9 a person from liability under other law.

260.1071. 1. The department shall educate consumers regarding  
2 the collection, recycling, and reuse of computer equipment.

3 2. The department shall host or designate another person to host  
4 an Internet site providing consumers with information about the  
5 recycling and reuse of computer equipment, including best management  
6 practices and information about and links to information on:

7 (1) Manufacturers' collection, recycling, and reuse programs,  
8 including manufacturers' recovery plans; and

9 (2) Computer equipment collection events, collection sites, and  
10 community computer equipment recycling and reuse programs.

260.1074. 1. The department may conduct audits and inspections  
2 to determine compliance with sections 260.1050 to 260.1101.

3 2. The department and the attorney general, as appropriate, shall

4 enforce sections 260.1050 to 260.1101 and, except as provided by  
5 subsections 4 and 5 of this section, take enforcement action against any  
6 manufacturer, retailer, or person who recycles or reuses computer  
7 equipment for failure to comply with sections 260.1050 to 260.1101.

8       3. The attorney general may file suit to enjoin an activity related  
9 to the sale of computer equipment in violation of sections 260.1050 to  
10 260.1101.

11       4. The department shall issue a written warning notice to a  
12 person upon the person's first violation of sections 260.1050 to  
13 260.1101. The person shall comply with sections 260.1050 to 260.1101  
14 not later than the sixtieth day after the date the warning notice is  
15 issued.

16       5. A retailer who receives a warning notice from the department  
17 that the retailer's inventory violates sections 260.1050 to 260.1101  
18 because it includes computer equipment from a manufacturer that has  
19 not submitted the recovery plan required by section 260.1062 shall  
20 bring the inventory into compliance with sections 260.1050 to 260.1101  
21 not later than the sixtieth day after the date the warning notice is  
22 issued.

23       6. (1) The department may assess a penalty against a  
24 manufacturer that does not label its computer equipment or adopt,  
25 implement, or submit a recovery plan as required by section 260.1062.  
26 No penalty shall be assessed for a first violation and the amount of the  
27 penalty shall not exceed ten thousand dollars for the second violation  
28 or twenty-five thousand dollars for each subsequent violation.

29       (2) Any penalty collected under this section shall be credited to  
30 the "Computer Recycling Subaccount", which is hereby created, in the  
31 hazardous waste fund. Moneys in the subaccount shall be used for the  
32 purpose of administering the provisions of sections 260.1050 to  
33 260.1101. The state treasurer shall be custodian of the subaccount and  
34 may approve disbursements from the fund in accordance with sections  
35 30.170 and 30.180, RSMo. Upon appropriation, money in the subaccount  
36 shall be used solely for the administration of sections 260.1050 to  
37 260.1101. Any moneys remaining in the subaccount at the end of the  
38 biennium shall revert to the credit of the general revenue fund. The  
39 state treasurer shall invest moneys in the fund in the same manner as  
40 other funds are invested. Any interest and moneys earned on such

41 investments shall be credited to the subaccount.

260.1077. Financial or proprietary information submitted to the  
2 department under sections 260.1050 to 260.1101 shall not be considered  
3 a public record under chapter 610, RSMo.

260.1080. The department shall compile information from  
2 manufacturers and issue an electronic report to the committee in each  
3 house of the general assembly having primary jurisdiction over  
4 environmental matters not later than March first of each year.

260.1083. Sections 260.1050 to 260.1101 do not authorize the  
2 department to impose a fee, including a recycling fee or registration  
3 fee, on a consumer, manufacturer, retailer, or person who recycles or  
4 reuses computer equipment.

260.1089. 1. All computer equipment collected under sections  
2 260.1050 to 260.1101 shall be recycled or reused in a manner that  
3 complies with federal, state, and local law.

4 2. The department shall, by rule, adopt as mandatory standards  
5 for recycling or reuse of computer equipment in this state the  
6 standards provided by "Electronics Recycling Operating Practices" as  
7 approved by the board of directors of the Institute of Scrap Recycling  
8 Industries, Inc., April 25, 2006, or other standards issued from the U.S.  
9 Environmental Protection Agency, if available.

260.1092. 1. If federal law establishes a national program for the  
2 collection and recycling of computer equipment and the department  
3 determines that the federal law substantially meets the purposes of  
4 sections 260.1050 to 260.1101, the department may adopt an agency  
5 statement that interprets the federal law as preemptive of sections  
6 260.1050 to 260.1101.

7 2. Sections 260.1050 to 260.1101 shall expire on the date the  
8 department issues a statement under this section.

260.1101. 1. The department shall adopt any rules required to  
2 implement sections 260.1050 to 260.1101 not later than July 1, 2009. Any  
3 rule or portion of a rule, as that term is defined in section 536.010,  
4 RSMo, that is created under the authority delegated in this section  
5 shall become effective only if it complies with and is subject to all of  
6 the provisions of chapter 536, RSMo, and, if applicable, section 536.028,  
7 RSMo. This section and chapter 536, RSMo, are nonseverable and if any  
8 of the powers vested with the general assembly pursuant to chapter

9 536, RSMo, to review, to delay the effective date, or to disapprove and  
10 annul a rule are subsequently held unconstitutional, then the grant of  
11 rulemaking authority and any rule proposed or adopted after August  
12 28, 2008, shall be invalid and void.

13 2. Sections 260.1050 to 260.1101 shall not be enforced before rules  
14 developed under this section are promulgated.

15 3. It shall not be considered a violation of sections 260.1050 to  
16 260.1101 for a retailer to sell any inventory accrued before the effective  
17 date of sections 260.1050 to 260.1101.

Unofficial

Bill

Copy