

State of Arkansas  
88th General Assembly  
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# A Bill

HOUSE BILL 1405

By: Representative Webb

## For An Act To Be Entitled

AN ACT TO PROVIDE FOR THE RECOVERY AND RECYCLING OF  
USED COMPUTER AND ELECTRONIC DEVICES; AND FOR OTHER  
PURPOSES.

## Subtitle

TO PROVIDE FOR THE RECOVERY AND RECYCLING  
OF USED COMPUTER AND ELECTRONIC DEVICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 8-6-603, concerning definitions, is amended  
to read as follows:

8-6-603. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Brand" means a manufacturer's name, brand designation, make  
or model number, or other nomenclature by which a covered electronic device  
is offered for sale by a manufacturer;

(2) "Cathode ray tube" means a vacuum tube, composed primarily  
of glass, which is the visual or video display component of an electronic  
device;

~~(1) (3) "Commission" means the Arkansas Pollution Control and  
Ecology Commission;~~

(4)(A) "Computer" means an electronic, magnetic, optical,  
electrochemical, or other high-speed data processing device performing  
logical, arithmetic, or storage functions, and may include both a computer  
central processing unit and a monitor.

(B) "Computer" does not include an automated typewriter or



1 typesetter, a portable handheld calculator, a portable digital assistant, or  
2 other similar device;

3 (5) "Consumer" means a person who used a covered electronic  
4 device in this state;

5 (6)(A) "Covered computer" means a computer that was or will be  
6 used primarily in this state.

7 (B) "Covered computer" does not include a device that is  
8 functionally or physically a part of, or connected to, or integrated within a  
9 larger piece of equipment or system designed and intended for use in an  
10 industrial, governmental, commercial, research and development, or medical  
11 setting, including without limitation:

12 (i) Diagnostic, monitoring, or control products;

13 (ii) Medical products approved under the Federal  
14 Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as in effect on January  
15 1, 2011;

16 (iii) Equipment used for purposes of security,  
17 sensing, monitoring, antiterrorism, or emergency purposes; or

18 (iv) Equipment designed and intended primarily for  
19 use by professional users;

20 (7)(A) "Covered electronic device" means a covered computer or  
21 covered video display device.

22 (B) "Covered electronic device" includes desktop  
23 computers, personal computers, computer monitors, portable computers, cathode  
24 ray tube-based televisions, and noncathode ray tube-based televisions.

25 (C) "Covered electronic device" does not include:

26 (i) A covered electronic device that is a part of a  
27 motor vehicle or any component part of a motor vehicle assembled by, or for,  
28 a vehicle manufacturer or franchised dealer, including replacement parts for  
29 use in a motor vehicle;

30 (ii) A covered electronic device that is  
31 functionally or physically a part of a larger piece of equipment designed and  
32 intended for use in an industrial, commercial, or medical setting, including  
33 diagnostic, monitoring, or control equipment;

34 (iii) A covered electronic device that is contained  
35 within a clothes washer, clothes dryer, refrigerator and freezer, microwave  
36 oven, conventional oven or range, dishwasher, room air conditioner,

dehumidifier, or air purifier;

(iv) A telephone of any type unless the telephone contains a video display area greater than four inches (4") measured diagonally; or

(v) Printers or facsimile machines;

(8)(A) "Covered video display device" means a video display device with a screen greater than four inches (4") measured diagonally that was or will be used primarily for personal or small business purposes in this state.

(B) "Covered video display device" does not include a device that is functionally or physically a part of, or connected to, or integrated within a larger piece of equipment or system designed and intended for transportation or use in an industrial, governmental, commercial, research and development, or medical setting, including without limitation:

(i) Diagnostic, monitoring, or control products;

(ii) Medical products approved under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as in effect on January 1, 2011;

(iii) Equipment used for purposes of security, sensing, monitoring, antiterrorism, or emergency purposes; or

(iv) Equipment designed and intended primarily for use by professional users;

~~(2)~~(9) "Department" means the Arkansas Department of Environmental Quality;

(10) "Director" means the Director of the Arkansas Department of Environmental Quality;

~~(3)~~(11) "Landfill" means all landfills permitted under the Arkansas Solid Waste Management Act, § 8-6-201 et seq., except those permitted landfills operated by a regulated public utility for ash generated by the combustion of coal to produce electric energy;

(12) "Manufacturer" means any person who, irrespective of the selling technique used, including by means of remote sale:

(A) Manufactures covered electronic devices under its own brand for sale;

(B) Manufactures covered electronic devices for sale without affixing a brand;

1                   (C) Resells covered electronic devices produced by other  
 2 suppliers under its own brand or label;

3                   (D) Imports or exports covered electronic devices into the  
 4 United States for sale in Arkansas. However, if a company from whom an  
 5 importer purchases the merchandise has a presence or assets, or both, in the  
 6 United States, that company shall be deemed to be the manufacturer; or

7                   (E) Manufactures covered electronic devices, supplies  
 8 covered electronic devices to any person within a distribution network that  
 9 includes wholesalers or retailers in Arkansas, and benefits from the sale in  
 10 Arkansas of covered electronic devices through that distribution network;

11               ~~(4)~~(13) "Permittee" means any individual, corporation, company,  
 12 firm, partnership, association, trust, local solid waste authority,  
 13 institution, county, city, town, or municipal authority or trust, venture, or  
 14 other legal entity holding a solid waste disposal permit as provided in the  
 15 Arkansas Solid Waste Management Act, § 8-6-201 et seq.;

16               (14) "Person" means an individual, trust firm, joint stock  
 17 company, business concern, or corporation, including without limitation a  
 18 government agency, partnership, limited liability company, or association;

19               ~~(5)~~(15) "Recycling" means the systematic collection, sorting,  
 20 decontamination, and return of waste materials to commerce as commodities for  
 21 use or exchange;

22               (16) "Registrant" means a manufacturer of covered electronic  
 23 devices that is in full compliance with this subchapter;

24               (17) "Retail sales" means the sale of products through sales  
 25 outlets and includes sales through the Internet, mail order, or other means,  
 26 whether or not the seller has a physical presence in Arkansas;

27               (18) "Retailer" means a person who owns or operates a business  
 28 that sells new, covered electronic devices in Arkansas by any means to a  
 29 consumer;

30               (19) "Sell" or "sale" means any transfer for consideration of  
 31 title, including but not limited to transactions conducted through sales  
 32 outlets, catalogs, or the Internet;

33               ~~(6)~~(20) "Solid waste" means any garbage or refuse, sludge from a  
 34 wastewater treatment plant, water supply treatment plant, or air pollution  
 35 control facility, and other discarded material, including solid, liquid,  
 36 semisolid, or contained gaseous material resulting from industrial,

commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. § 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, 68 Stat. 923;

~~(7)~~(21) "Solid waste disposal permit" means a permit issued by the State of Arkansas under the provisions of the Arkansas Solid Waste Management Act, § 8-6-201 et seq., for the construction and operation of a landfill waste disposal facility;

~~(8)~~(22) "Solid waste management" means the management of, but is not limited to, the storage, collection, transfer, transportation, treatment, utilization, processing, and final disposal of solid waste, including, but not limited to, the prevention, reduction, or recycling of wastes;

~~(9)~~(23) "Solid waste management plan" means a plan which is developed according to the provisions of the Arkansas Solid Waste Management Act, § 8-6-201 et seq., and guidelines of the department, and which is subject to approval by the department; and

~~(10)~~(24) "Transporter" or "solid waste transporter" means any individual, corporation, company, firm, partnership, association, trust, local solid waste authority, institution, county, city, town, or municipal authority or trust, venture, or other legal entity transporting solid waste within the state that is to be disposed of outside the state.

SECTION 2. Arkansas Code § 8-6-608, concerning penalties, is amended to read as follows:

8-6-608. Penalties.

(a) Failure of the permittee ~~or~~ , transporter, or manufacturer to pay ~~the fees assessed by~~ to the Arkansas Department of Environmental Quality ~~the fees required under this subchapter~~ provides grounds for administrative or civil enforcement action.

(b) Any person who violates any provision of this subchapter or any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission issued under this subchapter may be subject to administrative or civil enforcement action.

(c) Sanctions may include civil penalties and any other relief as

1 provided in the Arkansas Solid Waste Management Act, § 8-6-201 et seq., or  
2 the revocation of the solid waste disposal or transporter permit.

3  
4 SECTION 3. Arkansas Code § 8-6-609(b)(1)(B), concerning the grant  
5 program, is amended to read as follows:

6 (B)(i) Funds collected under the provisions of § 8-6-607  
7 and deposited ~~in~~ into the State Treasury to the credit of the Solid Waste  
8 Management and Recycling Fund, excluding registration fees and sales fees  
9 assessed pursuant to § 8-6-616 and less up to twenty-five percent (25%) for  
10 administrative support for the department, shall be annually allocated to  
11 each of the approved regional solid waste management districts for costs  
12 eligible for grant assistance utilizing a combination of two (2) methods,  
13 hereinafter referred to as "method A" and "method B".

14 (ii) Registration fees assessed under § 8-6-616  
15 shall be used by the department to administer the program for the recovery  
16 and recycling of covered electronic devices. Sales fees assessed under § 8-  
17 6-616 shall be used to reimburse regional solid waste management district  
18 boards for their reasonable and necessary actual costs of managing the  
19 programs for the recovery and recycling of covered electronic devices within  
20 their districts.

21  
22 SECTION 4. Arkansas Code Title 8, Chapter 6, Subchapter 6, concerning  
23 the Solid Waste Management and Recycling Fund Act, is amended to add the  
24 additional sections to read as follows:

25 8-6-615. Sales prohibition.

26 (a) A manufacturer shall not sell or offer to sell any new covered  
27 electronic device for delivery in Arkansas unless the manufacturer is in  
28 compliance with all financial requirements and other provisions of this  
29 subchapter.

30 (b) By July 1 of each year, beginning July 1, 2012, the Arkansas  
31 Department of Environmental Quality shall maintain on its website a current  
32 list of all manufacturers in compliance with the requirements of this  
33 subchapter. Retailers of covered electronic devices within Arkansas shall  
34 consult the list before purchasing covered electronic devices.

35 (c) A retailer shall be in compliance with this section if, on the  
36 date that the product was ordered from the manufacturer or its agent, the

1 manufacturer was listed as being in compliance on the department's website.

2  
3 8-6-616. Registration and fees.

4 (a) A manufacturer of covered electronic devices shall register with  
5 the Arkansas Department of Environmental Quality no later than January 1,  
6 2012, and annually thereafter, on a form prescribed by the Director of the  
7 Arkansas Department of Environmental Quality and accompanied by an annual  
8 registration fee of five hundred dollars (\$500).

9 (b) A manufacturer shall declare its intent to the department no later  
10 than January 1, 2012, of whether it will implement a manufacturer's recovery  
11 plan under § 8-6-617.

12 (c) A manufacturer of covered electronic devices who elects to  
13 implement a manufacturer's recovery plan shall:

14 (1) Submit a manufacturer's recovery plan as provided in § 8-6-  
15 617 to the department no later than January 1, 2012;

16 (2) Implement the manufacturer's recovery plan approved by the  
17 department no later than July 1, 2012;

18 (3) On or before March 31, 2013, submit to the department an  
19 annual report of the manufacturer's total weight of covered electronic  
20 devices sold and total weight of covered electronic devices recovered within  
21 Arkansas between July 1, 2012, and December 31, 2012;

22 (4) On or before March 31, 2013, pay to the department a  
23 manufacturer's sales fee in an amount equal to thirty cents (30¢) per pound  
24 for each pound of covered electronic devices sold between July 1, 2012, and  
25 December 31, 2012, less a credit of thirty cents (30¢) per pound for each  
26 pound of covered electronic devices recovered between July 1, 2012, and  
27 December 31, 2012, but the credit provided for the recovered electronic  
28 devices shall not be more than the manufacturer's sales fee owed for the  
29 period from July 1, 2012, through December 31, 2012;

30 (5) By March 31 of each year beginning March 31, 2014, submit to  
31 the department an annual report of the manufacturer's total weight of covered  
32 electronic devices sold and total weight of electronic devices recovered  
33 within Arkansas between January 1 and December 31 of the preceding year; and

34 (6) By March 31 of each year beginning March 31, 2014, pay to  
35 the department an annual manufacturer's sales fee in an amount equal to  
36 thirty cents (30¢) per pound for each pound of covered electronic devices

1 sold between January 1 and December 31 of the preceding year, less thirty  
2 cents (30¢) per pound for each pound of covered electronic devices recovered  
3 during the same time period, but the credit provided for the recovered  
4 electronic devices shall not be more than the manufacturer's sales fee owed  
5 for that year.

6 (d) A manufacturer of covered electronic devices that does not elect  
7 to implement a manufacturer's recovery plan shall:

8 (1) On or before March 31, 2013, submit to the department an  
9 annual report of the manufacturer's total weight of covered electronic  
10 devices sold in Arkansas between July 1, 2012, and December 31, 2012;

11 (2) On or before March 31, 2013, pay to the department a  
12 manufacturer's sales fee in an amount equal to thirty cents (30¢) per pound  
13 for each pound of covered electronic devices sold in Arkansas between July 1,  
14 2012, and December 31, 2012;

15 (3) By March 31 of each year beginning March 31, 2014, submit to  
16 the department an annual report of the manufacturer's total weight of covered  
17 electronic devices sold in Arkansas between January 1 and December 31 of the  
18 preceding year; and

19 (4) By March 31 of each year beginning March 31, 2014, pay to  
20 the department an annual manufacturer's sales fee in an amount equal to  
21 thirty cents (30¢) per pound for each pound of covered electronic devices  
22 sold in Arkansas between January 1 and December 31 of the preceding year.

23 (e) Fees collected under this section shall be special revenues  
24 deposited into the State Treasury to the credit of the Solid Waste Management  
25 and Recycling Fund, § 8-6-605.

26 (f) The Arkansas Pollution Control and Ecology Commission may, by  
27 rule, modify the fees in this section as needed to support and implement the  
28 recovery and recycling of covered electronic devices in the State of  
29 Arkansas.

30  
31 8-6-617. Manufacturer's recovery plan.

32 (a) A manufacturer of covered electronic devices may implement a  
33 manufacturer's recovery plan to collect, transport, and recycle covered  
34 electronic devices by submitting to the Arkansas Department of Environmental  
35 Quality a written proposal that includes at a minimum:

36 (1) Information for the consumer on how and where to return the

1 manufacturer's covered electronic devices;

2 (2) Methods that will be used to collect the covered electronic  
3 devices including the name and locations of all collection and consolidation  
4 points;

5 (3) An estimate of the amount of covered electronic devices that  
6 will be collected annually;

7 (4) The name and location of all processing and end-use  
8 facilities to be used;

9 (5) Means that will be used to publicize the collection  
10 opportunities;

11 (6) The intention of the registrant to fulfill its obligations  
12 through operation of its own program, either individually or in partnership  
13 with other manufacturers; and

14 (7) The total weight of covered electronic devices collected,  
15 transported, and recycled the previous year.

16 (b) The collection of covered electronic devices provided under the  
17 recovery plan must be reasonably convenient and available to consumers in  
18 Arkansas. Collection methods that alone or combined meet the convenience  
19 requirements of this section include without limitation:

20 (1) A system by which the manufacturer or the manufacturer's  
21 designee offers the consumer a system for returning a covered electronic  
22 device by mail at no charge to the consumer;

23 (2) A system using a physical collection site the manufacturer  
24 or manufacturer's designee operates and to which the consumer may return a  
25 covered electronic device; or

26 (3) A system using collection events held by the manufacturer or  
27 manufacturer's designee at which the consumer may return a covered electronic  
28 device.

29 (c) Collection services under this section may use existing collection  
30 and consolidation infrastructure and may encourage the inclusion of systems  
31 jointly managed by a group of manufacturers, electronics recyclers and repair  
32 shops, not-for-profit corporations, retailers, solid waste management  
33 district boards, or other suitable entities.

34 (d) This section does not exempt the manufacturer from the annual  
35 registration requirements or from paying the annual registration fee of five  
36 hundred dollars (\$500) under § 8-6-616(a) or from paying the manufacturer's

1 sales fee under §8-6-616(c).

2  
3 8-6-618. Labeling requirement.

4 Beginning July 1, 2012, a covered electronic device shall be labeled  
5 with a brand, and the label shall be permanently affixed and readily visible.

6  
7 8-6-619. Environmentally sound management requirements – Landfill ban  
8 for covered electronic devices.

9 (a) Covered electronic devices collected for recycling through any  
10 program in Arkansas, whether by manufacturers, retailers, for-profit or not-  
11 for-profit corporations, units of government, or organized by the Arkansas  
12 Department of Environmental Quality, shall be recycled in a manner that is in  
13 compliance with all applicable federal, state, and local laws, regulations,  
14 and ordinances.

15 (b) It shall be unlawful to dispose of a covered electronic device in  
16 a landfill in the state of Arkansas on and after July 1, 2012.

17  
18 8-6-620. Regulatory authority – Computer and electronic recycling  
19 program.

20 (a) The Arkansas Pollution Control and Ecology Commission may adopt  
21 rules as shall be necessary to implement or effectuate the recovery and  
22 recycling of covered electronic devices in the State of Arkansas consistent  
23 with the provisions of this subchapter.

24 (b) The Department of Finance and Administration may adopt rules  
25 allowing a procurement preference based upon a manufacturer's compliance with  
26 provisions of this subchapter governing the recovery and recycling of covered  
27 electronic devices.