

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

*As Engrossed: H3/13/15*

# A Bill

HOUSE BILL 1830

5 By: Representative Tucker  
6

## For An Act To Be Entitled

8 *AN ACT TO CREATE THE ARKANSAS MANUFACTURER*  
9 *RESPONSIBILITY AND CONSUMER CONVENIENCE INFORMATION*  
10 *TECHNOLOGY EQUIPMENT COLLECTION AND RECOVERY ACT; TO*  
11 *REQUIRE A MANUFACTURER OF CERTAIN COMPUTING, DISPLAY,*  
12 *OR PRINTING EQUIPMENT TO OFFER A RECOVERY PROGRAM FOR*  
13 *THE COLLECTION OF EQUIPMENT FROM A CONSUMER IN A*  
14 *MANNER CONVENIENT TO THE CONSUMER; TO LIMIT THE*  
15 *LIABILITY OF A MANUFACTURER FOR DAMAGE SUSTAINED BY A*  
16 *CONSUMER FROM INFORMATION CONTAINED ON EQUIPMENT*  
17 *RETURNED BY THE CONSUMER TO A MANUFACTURER THROUGH*  
18 *THE MANUFACTURER'S RECOVERY PROGRAM; AND FOR OTHER*  
19 *PURPOSES.*

## Subtitle

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23 *TO CREATE THE ARKANSAS MANUFACTURER*  
24 *RESPONSIBILITY AND CONSUMER CONVENIENCE*  
25 *INFORMATION TECHNOLOGY EQUIPMENT*  
26 *COLLECTION AND RECOVERY ACT; TO REQUIRE A*  
27 *RECOVERY PROGRAM FOR CERTAIN COMPUTING,*  
28 *DISPLAY, AND PRINTING EQUIPMENT.*

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31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
32

33 *SECTION 1. Arkansas Code Title 8, Chapter 6, is amended to add an*  
34 *additional subchapter to read as follows:*

35 *Subchapter 20 – Arkansas Manufacturer Responsibility and Consumer Convenience*  
36 *Information Technology Equipment Collection and Recovery Act*



1  
2 8-6-2001. Title.

3 This subchapter may be cited as the "Arkansas Manufacturer  
4 Responsibility and Consumer Convenience Information Technology Equipment  
5 Collection and Recovery Act".

6  
7 8-6-2002. Findings.

8 The General Assembly finds that:

9 (1) Televisions, computing, and printing devices are critical to  
10 the development of this state's economy and the promotion of the quality of  
11 life of the citizens of this state;

12 (2) Many used televisions, computing, and printing devices can  
13 be refurbished and reused, or recycled;

14 (3) Developing and implementing a system for recovering  
15 televisions, computing, and printing devices promotes resource conservation,  
16 public health, public safety, and economic prosperity; and

17 (4)(A) The state should establish a comprehensive and convenient  
18 recovery program for televisions, computing, and printing devices based on  
19 individual manufacturer responsibility and shared responsibility among  
20 consumers, retailers, and government.

21 (B) The program should ensure that used televisions,  
22 computing, and printing devices are disposed of in a manner that promotes  
23 resource conservation through the development of an effective and efficient  
24 system for collection and recycling.

25 (C) The program should encourage manufacturers to offer a  
26 convenient collection and recycling service to consumers at no charge.

27  
28 8-6-2003. Definitions.

29 As used in this subchapter:

30 (1) "Collect" means to facilitate the delivery of a covered  
31 device to a collection site included in the manufacturer's program, and to  
32 transport the covered device for recovery;

33 (2) "Computer manufacturer" means a person that:

34 (A) Manufactures a covered computer device under its own  
35 brand for sale or without affixing a brand;

36 (B) Sells in this state a covered computer device produced

1 by another supplier under its own brand or label;

2 (C) Imports covered computer devices into the United  
3 States;

4 (D) Is a foreign company from which an importer purchases  
5 a covered computer device that has a presence or assets in the United States;  
6 or

7 (E) Manufactures a covered computer device, supplies a  
8 covered computer device to a person within a distribution network that  
9 includes wholesalers or retailers in this state, and benefits from the sale  
10 of a covered computer device through the distribution network;

11 (3) "Consumer" means an occupant of a single, detached dwelling  
12 unit or a single unit of a multiple dwelling unit who has used a covered  
13 device primarily for personal or home business use;

14 (4)(A) "Covered computer device" means a desktop or notebook  
15 computer, computer monitor, or printing device marketed and intended for use  
16 by a consumer.

17 (B) "Covered computer device" does not include a covered  
18 television device;

19 (5)(A) "Covered device" means a covered computer device and a  
20 covered television device marketed and intended for use by a consumer.

21 (B) "Covered device" does not include:

22 (i) A device that is a part of a motor vehicle or a  
23 component part of a motor vehicle assembled by or for a motor vehicle  
24 manufacturer or franchised dealer, including replacement parts for use in a  
25 motor vehicle;

26 (ii) A device that is functionally or physically a  
27 part of, or connected to, or integrated within equipment or a system designed  
28 and intended for use in an industrial, governmental, commercial, research and  
29 development, or medical setting, including without limitation diagnostic,  
30 monitoring, control, or medical products as defined under the federal Food,  
31 Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., equipment or a system  
32 designed and intended for use in security, sensing, monitoring, anti-  
33 terrorism, and emergency services purposes, or equipment or a system designed  
34 and intended primarily for use by professional users;

35 (iii) A device that is contained within a clothes  
36 washer, clothes dryer, refrigerator, refrigerator and freezer, microwave

1 oven, conventional oven or range, dishwasher, air conditioner, dehumidifier,  
2 air purifier, water heater, or exercise equipment; or

3 (iv) A telephone, including a mobile telephone, a  
4 personal digital assistant, a global positioning system, or a handheld gaming  
5 device;

6 (6)(A) "Covered television device" means an electronic device  
7 that contains a tuner that locks on to a selected carrier frequency and is  
8 capable of receiving and displaying television or video programming via  
9 broadcast, cable, or satellite, including without limitation a direct view or  
10 projection television with a viewable screen of nine inches (9") or larger  
11 whose display technology is based on cathode ray tube, plasma, liquid crystal  
12 display, digital light processing, liquid crystal on silicon, silicon crystal  
13 reflective display, light emitting diode, or similar technology marketed and  
14 intended for use by a consumer primarily for personal purposes.

15 (B) "Covered television device" does not include a covered  
16 computer device;

17 (7) "Manufacturer's brand" means a manufacturer's name, brand  
18 name either owned or licensed by the manufacturer, or brand logo for which  
19 the manufacturer has legal responsibility;

20 (8) "Market share" means the total weight of a television  
21 manufacturer's covered television devices that were sold at retail in the  
22 United States to individuals during the previous year, multiplied by the  
23 population fraction of Arkansas to the United States population as determined  
24 in the most recent United States Census data for the total population of  
25 Arkansas divided by the total population of the United States, divided by the  
26 total weight of all of the covered television devices that were sold at  
27 retail to individuals in Arkansas during the previous year;

28 (9) "Person" means an individual, business entity, partnership,  
29 limited liability company, corporation, not-for-profit corporation,  
30 association, government entity, public benefit corporation, or public  
31 authority;

32 (10) "Recover" means to reuse or recycle;

33 (11) "Recoverer" means a person or entity that reuses or  
34 recycles a covered device;

35 (12) "Retail sale" means the sale of a new product through a  
36 sales outlet, the Internet, mail order, or otherwise, whether or not the

1 seller has a physical presence in this state;

2 (13) "Retailer" means a person engaged in retail sales;

3 (14)(A) "Sell" means a transfer for consideration of title,  
4 including without limitation a transaction conducted through a sales outlet,  
5 a catalog, or the Internet or another similar electronic means.

6 (B) "Sell" does not mean a lease; and

7 (15)(A) "Television manufacturer" means a person that:

8 (i) Manufactures covered television devices under a  
9 manufacturer's brand that it licenses or owns for sale in this state;

10 (ii) Manufactures covered television devices without  
11 affixing a manufacturer's brand for sale in this state;

12 (iii) Resells into this state a covered television  
13 device under a manufacturer's brand it owns or licenses produced by other  
14 suppliers, including a retail establishment that sells covered television  
15 devices under a manufacturer's brand the retailer owns or licenses;

16 (iv) Imports covered television devices into the  
17 United States;

18 (v) Is a foreign company from which an importer  
19 purchases a covered television device that has a presence or assets in the  
20 United States;

21 (vi) Manufactures covered television devices,  
22 supplies covered television devices to a person within a distribution network  
23 that includes wholesalers or retailers in this state, and benefits from the  
24 sale in this state of the covered television devices through the distribution  
25 network; or

26 (vii) Assumes the responsibilities and obligations  
27 of a television manufacturer under this subchapter.

28 (B) "Television manufacturer" does not include a licensor  
29 or manufacturer's brand owner of a manufacturer's brand under which a  
30 television manufacturer manufactures, sells, or resells televisions.

31  
32 8-6-2004. Manufacturer's brand label.

33 A computer manufacturer or television manufacturer shall not sell or  
34 offer to sell a covered device unless a label indicating the computer  
35 manufacturer's or television manufacturer's brand is permanently affixed to  
36 the covered device in a readily visible location.

1  
2 8-6-2005. Computer device recovery program.

3 (a) A computer manufacturer shall not sell or offer to sell in this  
4 state a covered computer device unless the computer manufacturer provides a  
5 recovery program at no charge or provides a financial incentive of equal or  
6 greater value, such as a coupon.

7 (b) A recovery program under this section shall:

8 (1) Require a computer manufacturer to offer to collect from a  
9 consumer a covered computer device bearing a label indicating the computer  
10 manufacturer's brand; and

11 (2)(A) Make the computer manufacturer's collection service as  
12 convenient to a consumer as the purchase of a covered computer device from  
13 the computer manufacturer.

14 (B) A computer manufacturer may use a mail-back system in  
15 which a consumer can return an end-of-life covered computer device by mail,  
16 including a system in which a consumer can go online, print a prepaid  
17 shipping label, package the covered computer device, and affix the prepaid  
18 label to the package for deposit with the United States Postal Service or  
19 other carrier selected by the computer manufacturer.

20 (C)(i) If a computer manufacturer does not provide a mail-  
21 back system, the computer manufacturer shall provide collection sites or  
22 collection events, or both, that are centrally located in a county, region,  
23 or other location based on population.

24 (ii) A computer manufacturer shall work in  
25 coordination with the Arkansas Department of Environmental Quality to  
26 determine an appropriate number of collection sites or collection events, or  
27 both.

28 (c) A recovery program under this section may use existing collection  
29 and consolidation infrastructure for collecting covered computer devices,  
30 including retailers, recyclers, and reuse organizations.

31 (d) A computer manufacturer may work collectively and cooperatively  
32 with another computer manufacturer to offer collection services to consumers.

33 (e) A computer manufacturer shall describe the computer manufacturer's  
34 recovery program on the computer manufacturer's website if the computer  
35 manufacturer maintains a website.

36 (f) A collection event under this section shall accept a covered

1 computer device manufactured by any computer manufacturer.

2  
3 8-6-2006. Television device recovery program.

4 (a) A television manufacturer shall not sell or offer for sale a  
5 covered television device in this state unless the television manufacturer  
6 provides a recovery program at no charge or provides a financial incentive of  
7 equal or greater value, such as a coupon.

8 (b) A television manufacturer shall annually recycle or arrange for  
9 the recycling of covered television devices manufactured by the television  
10 manufacturer.

11 (c)(1) A television manufacturer shall annually recycle or arrange for  
12 the recycling of its market share of covered television devices under this  
13 section.

14 (2) The individual recycling obligation for each television  
15 manufacturer is the total number of pounds of covered television devices  
16 recycled by all television manufacturers during the previous year multiplied  
17 by the television manufacturer's market share.

18 (3) The Arkansas Department of Environmental Quality shall  
19 notify each television manufacturer of its market share recycling obligation.

20 (4) A television manufacturer shall provide information to the  
21 department to allow the department to calculate market share and to determine  
22 each television manufacturer's recycling obligation.

23 (5) A television manufacturer shall report to the department the  
24 total weight of the television manufacturer's covered television devices sold  
25 at retail in the United States, the state specific covered television device  
26 sales data annually calculated using the population fraction of Arkansas to  
27 the United States population, and the total weight of covered television  
28 devices collected and recycled in the state during the previous year.

29 (d)(1) A television manufacturer may fulfill the requirements of this  
30 section either individually or in participation with other television  
31 manufacturers.

32 (2) A recovery program under this section may use existing  
33 collection and consolidation infrastructure for collecting covered television  
34 devices, including retailers, recyclers, and reuse organizations.

35 (e) A television manufacturer shall provide the department with  
36 contact information for the television manufacturer's designated agent or

1 employee whom the department may contact for information related to the  
2 television manufacturer's compliance with this section.

3  
4 8-6-2007. Retailers.

5 (a) A retailer shall only sell or offer to sell a covered device that:

6 (1) Bears a manufacturer label as required under § 8-6-2004; and

7 (2) Is manufactured by a computer manufacturer or television  
8 manufacturer that offers a recovery program under this subchapter.

9 (b) This section does not apply to a covered television device sold by  
10 a retailer for less than one hundred dollars (\$100).

11  
12 8-6-2008. Immunity.

13 (a) A computer manufacturer or television manufacturer is not liable  
14 for damages arising from information stored on a covered device collected  
15 from a consumer through the computer manufacturer or television  
16 manufacturer's recovery programs under this subchapter.

17 (b) A retailer is not liable for damages arising from information  
18 stored on a covered device collected from a consumer under a computer  
19 manufacturer or television manufacturer's recovery program under this  
20 subchapter.

21  
22 8-6-2009. Landfill disposal prohibited – Notice.

23 (a) A consumer shall not knowingly place or discard a covered device  
24 or any of the components or subassemblies of a covered device in a waste  
25 stream that is to be disposed of in a solid waste landfill.

26 (b) An owner or operator of a solid waste landfill shall not knowingly  
27 accept for disposal at the solid waste landfill's gate a load containing more  
28 than an incidental amount of covered devices.

29 (c) The owner or operator of a solid waste landfill shall post, in a  
30 conspicuous location at the solid waste landfill, a sign stating that covered  
31 devices and components of covered devices are not accepted for disposal at  
32 the solid waste landfill.

33 (d) The owner or operator of a solid waste landfill shall notify in  
34 writing a hauler delivering solid waste to the landfill that covered devices  
35 and components of covered devices are not accepted for disposal at the solid  
36 waste landfill.

1  
2 8-6-2010. Arkansas Department of Environmental Quality – Website  
3 information.

4 The Arkansas Department of Environmental Quality shall provide  
5 information to the public on its website regarding:

6 (1) The recovery programs under this subchapter;

7 (2) The prohibition on disposing of covered devices and  
8 components in a solid waste landfill;

9 (3) Collection options available for covered devices;

10 (4) The definition of covered devices;

11 (5) Proper methods for disposing of covered devices and  
12 noncovered devices; and

13 (6) Links to recovery programs on each computer manufacturer or  
14 television manufacturer’s website.

15  
16 8-6-2011. Arkansas Department of Environmental Quality – Audits and  
17 inspections – Penalties.

18 The Arkansas Department of Environmental Quality may:

19 (1) Conduct audits and inspections of a computer or television  
20 manufacturer, retailer, or recoverer to determine compliance with this  
21 subchapter; and

22 (2) Establish by rule administrative fines for violations of  
23 this subchapter not to exceed one thousand dollars (\$1,000) for each  
24 violation.

25  
26 8-6-2012. Confidentiality.

27 Financial and proprietary information submitted to the Arkansas  
28 Department of Environmental Quality under this subchapter is confidential and  
29 is not subject to examination or disclosure as public information under the  
30 Freedom of Information Act, § 25-19-101 et seq.

31  
32 8-6-2013. Arkansas Department of Environmental Quality – Annual  
33 report.

34 The Arkansas Department of Environmental Quality shall include in its  
35 annual solid waste report information provided by computer manufacturers and  
36 television manufacturers on recovery programs offered under this subchapter.

1  
2 8-6-2014. Compliance with law and industry standards.

3 (a) A covered device shall be recovered in a manner that complies with  
4 applicable federal, state, and local requirements.

5 (b) A recoverer shall at a minimum comply with the responsible  
6 recycling practices developed by the Institute of Scrap Recycling Industries,  
7 Inc., or other comparable industry or governmental standards as the they  
8 existed on January 1, 2015.

9  
10 8-6-2015. Fees.

11 (a) The Arkansas Department of Environmental Quality shall establish a  
12 registration fee schedule for a computer manufacturer and a television  
13 manufacturer as follows:

14 (1) An initial registration fee of not more than two thousand  
15 five hundred dollars (\$2,500); and

16 (2) An annual registration renewal fee of not more than one  
17 thousand dollars (\$1,000).

18 (b)(1)(A) A fee for a computer manufacturer shall be based on the  
19 computer manufacturer's volume of sales in this state.

20 (B) A fee for a television manufacturer shall be based on  
21 the market share of the television manufacturer.

22 (2) A manufacturer of a covered device that sells one thousand  
23 (1,000) or fewer covered devices per year is exempt from a fee under this  
24 subchapter.

25 (c) Proceeds from fees collected under this section shall be used by  
26 the department exclusively to implement this subchapter.

27  
28 8-6-2016. Rules.

29 The Arkansas Department of Environmental Quality shall adopt rules to  
30 implement this subchapter including without limitation rules for:

31 (1) Computer manufacturers' and television manufacturers' annual  
32 reports;

33 (2) Computer manufacturers' and television manufacturers' plans;

34 (3) Reporting requirements; and

35 (4) Standards for operations of recovery facilities.

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*/s/Tucker*