

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS35230-RTx-7A* (02/25)

Short Title: Establish Electronics Recycling Program. (Public)

Sponsors: Senator Kinnaird.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO ESTABLISH A RECYCLING PROGRAM FOR CERTAIN
3 ELECTRONIC DEVICES AND TO IMPOSE A TAX ON THOSE DEVICES IN
4 ORDER TO FUND THE PROGRAM AND TO PROVIDE LOCAL
5 GOVERNMENTS WITH FUNDS TO ENABLE THEM TO RECYCLE
6 ELECTRONIC DEVICES.

7 Whereas, the leaching of lead from cathode ray tubes in landfills is a concern
8 for the future protection of human health and the environment; and

9 Whereas, the electronics waste stream is growing rapidly in volume and
10 complexity and may account for as much as seventy percent (70%) of the toxic heavy
11 metals found in solid waste landfills; and

12 Whereas, local government-operated programs are an efficient way to divert
13 electronics from disposal and to provide recycling services to citizens across the State;
14 and

15 Whereas, the development of local programs is hindered by the high costs of
16 marketing collected cathode ray tubes and other electronics; and

17 Whereas, no other system currently exists, either provided by electronics
18 manufacturers, retailers, or others, to adequately serve North Carolinians and to divert
19 large quantities of electronics from disposal; and

20 Whereas, it is already illegal for businesses to dispose of cathode ray tubes in
21 landfills in North Carolina, but small- and medium-sized businesses lack practical
22 electronics recycling options; and

23 Whereas, the recycling of electronic wastes recovers valuable materials for
24 reuse and will create jobs and tax base in North Carolina; Now, therefore,

25 The General Assembly of North Carolina enacts:

26 **SECTION 1.** Chapter 105 of the General Statutes is amended by adding a
27 new Article to read:

1 "Article 5G.

2 "Electronics Recycling Tax.

3 "**§ 105-187.60. Definitions.**

4 (a) The definitions in G.S. 105-164.3 apply to this Article, except that the term
5 'sale' does not include lease or rental.

6 (b) As used in this Article:

7 (1) 'Electronic device' means an item containing a cathode ray tube.

8 "**§ 105-187.61. Tax imposed.**

9 A privilege tax is imposed on an electronic device retailer at a flat rate for each new
10 electronic device that is sold by the retailer. An excise tax is imposed on a new
11 electronic device purchased outside the State for storage, use, or consumption in this
12 State. The rate of the privilege tax and the excise tax is ten dollars (\$10.00). These taxes
13 are in addition to all other taxes.

14 "**§ 105-187.62. Administration.**

15 The privilege tax this Article imposes on an electronic device retailer is an additional
16 State sales tax, and the excise tax this Article imposes on the storage, use, or
17 consumption of a new electronic device in this State is an additional State use tax.
18 Except as otherwise provided in this Article, these taxes shall be collected and
19 administered in the same manner as the State sales and use taxes imposed by Article 5
20 of this Chapter. As under Article 5 of this Chapter, the additional State sales tax paid
21 when a new electronic device is sold at retail is a credit against the additional State use
22 tax imposed on the storage, use, or consumption of the same electronic device.

23 "**§ 105-187.63. Exemptions and refunds.**

24 Except for the exemption provided in G.S. 105-164.13(17), the exemptions in G.S.
25 105-164.13 do not apply to the taxes imposed by this Article. The refunds allowed in
26 G.S. 105-164.14 do not apply to the taxes imposed by this Article.

27 "**§ 105-187.64. Use of tax proceeds.**

28 The Secretary shall distribute the taxes collected under this Article, less the
29 Department of Revenue's allowance for administrative expenses, in accordance with this
30 section. The Secretary may retain the Department's cost of collection, not to exceed two
31 hundred twenty-five thousand dollars (\$225,000) a year, as reimbursement to the
32 Department. Each quarter, the Secretary shall credit the net tax proceeds to the
33 Electronics Recycling Account.

34 "**§§ 105-187.65 through 105-187.69:** Reserved for future codification purposes."

35 **SECTION 2.** Article 9 of Chapter 130A of the General Statutes is amended
36 by adding a new Part to read:

37 "Part 2E. Electronics Recycling Act of 2003.

38 "**§ 130A-309.90. Title.**

39 This Part may be cited as the 'North Carolina Electronics Recycling Act of 2003'.

40 "**§ 130A-309.91. Definitions.**

41 Unless a different meaning is required by the context, the following definitions shall
42 apply throughout this Part:

43 (1) Electronic device. – An item containing a cathode ray tube.

- 1 (2) Eligible device. – An electronic device owned and discarded by a
2 household or business at a rate of no more than five per quarter or on
3 which the owner of the electronic device can show proof that the
4 electronics recycling tax has been paid.

5 **"§ 130A-309.92. Management of electronic devices.**

6 A unit of local government that implements an electronics recycling program as a
7 part of its solid waste management plan adopted pursuant to G.S. 130A-309.09A shall
8 be eligible to receive reimbursement from the Electronics Recycling Account. The
9 amount of the reimbursement shall be the amount equal to ten dollars (\$10.00) for each
10 eligible device recycled by the unit of local government for that quarter. The
11 Department shall reimburse a unit of local government only after receiving a statement
12 certified by the county finance officer that includes the number of eligible devices
13 recycled by the unit of local government for that quarter. A unit of local government
14 that receives reimbursement from the Electronics Recycling Account shall not charge a
15 fee for the recycling of eligible devices. A unit of local government may contract with
16 another unit of local government or a private entity in accordance with Article 15 of
17 Chapter 153A of the General Statutes to provide for the recycling of discarded
18 electronics. A contracting party that receives reimbursement from the Electronics
19 Recycling Account shall not charge a fee for the recycling of eligible devices under that
20 contract.

21 **"§ 130A-309.93. Use of reimbursements.**

22 A unit of local government may use reimbursements from the Electronics Recycling
23 Account to offset any of the following:

- 24 (1) Collection and transportation of discarded electronics.
25 (2) Recycling processing fees.
26 (3) Costs of educating citizens about its electronics recycling program.

27 **"§ 130A-309.94. Electronics Recycling Account.**

28 (a) The Electronics Recycling Account is established within the Department. The
29 Account consists of revenue credited to the Account from the proceeds of the
30 electronics recycling tax imposed by Article 5G of Chapter 105 of the General Statutes.

31 (b) Funds in the Account shall be allocated and used as follows:

- 32 (1) Seventy-seven percent (77%) for reimbursement of units of local
33 government.
34 (2) Ten percent (10%) for supplemental grant funding to units of local
35 government to help initiate local programs, enhance existing local
36 electronics recycling services, and encourage regionalization of local
37 electronics programs.
38 (3) Seven percent (7%) for revolving loans for the development of private
39 recycling businesses.
40 (4) Three percent (3%) for grants for research and development of more
41 environmentally responsible electronics.
42 (5) Three percent (3%) to the Department for the administration of the
43 public education and local government assistance program pursuant to
44 G.S. 130A-309.96.

1 **"§ 130A-309.95. Effect of local ordinance.**

2 This Part preempts any local ordinance regarding the management of discarded
3 electronics to the extent, and only to the extent, that the local ordinance is inconsistent
4 with this Part or the rules adopted pursuant to this Part.

5 **"§ 130A-309.96. Duties of Department.**

6 (a) Public Education. – The Department shall educate the public on the
7 environmental benefits of recycling electronics. This public education effort shall
8 include point-of-sale education.

9 (b) Local Government Assistance. – The Department shall provide assistance to
10 units of local government developing electronics recycling programs. As part of this
11 assistance, the Department shall assist with the coordination of regional recovery efforts
12 for electronics.

13 (c) State Term Recycling Contract. – The Department shall assist the Department
14 of Administration in establishing a State term recycling contract with electronics
15 recycling processors that may be used by local governments.

16 (d) Revolving Loan Fund Program. – The Department shall develop and
17 implement a revolving loan fund program, utilizing the funds allocated pursuant to G.S.
18 130A-309.94(b)(3), for the development of private recycling businesses.

19 (e) Supplemental Grant Program. – The Department shall develop and implement
20 a supplemental grant program, utilizing the funds allocated pursuant to G.S.
21 130A-309.94(b)(2), to encourage and enhance the establishment of electronics recycling
22 programs.

23 (f) Environmentally Responsible Electronics. – The Department shall develop
24 and implement a grant program, utilizing the funds allocated pursuant to G.S.
25 130A-309.94(b)(4), for research and development of more environmentally responsible
26 electronics.

27 (g) Procurement Contracts. – The Department shall provide technical assistance
28 to the Department of Administration and to units of local government in the
29 development of procurement requirements for recycled content for electronics and
30 preferential treatment of vendors and manufacturers that utilize environmentally
31 responsible manufacturing processes or that utilize sustainable product stewardship
32 programs.

33 **"§ 130A-309.97. Annual report.**

34 The Department shall include in the report to be delivered to the Environmental
35 Review Commission on or before 15 January of each year pursuant to G.S.
36 130A-309.06(c) a description of the management of discarded electronics in the State
37 for the fiscal year ending the preceding 30 June. The description of the management of
38 electronics shall include all of the following information:

39 (1) An evaluation of the implementation of the Electronics Recycling Act
40 of 2003.

41 (2) The amount of taxes collected and distributed under G.S. 105-187.61
42 during the period covered by the report.

1 (3) The beginning and ending balances of the Electronics Recycling
2 Account for the period covered by the report and a list of
3 reimbursements made from the Account for the period.

4 (4) Any other information the Department considers helpful in
5 understanding the problem of managing electronics.

6 "**§§ 130A-309.98 through 130A-309.99:** Reserved for future codification purposes."

7 **SECTION 3.** G.S. 130A-309.06(c) reads as rewritten:

8 "(c) The Department shall report to the Environmental Review Commission on or
9 before 15 January of each year on the status of solid waste management efforts in the
10 State. The report shall include:

11 (1) A comprehensive analysis, to be updated in each report, of solid waste
12 generation and disposal in the State projected for the 20-year period
13 beginning on 1 July 1991.

14 (2) The total amounts of solid waste recycled and disposed of and the
15 methods of solid waste recycling and disposal used during the calendar
16 year prior to the year in which the report is published.

17 (3) An evaluation of the development and implementation of local solid
18 waste management programs and county and municipal recycling
19 programs.

20 (4) An evaluation of the success of each county or group of counties in
21 meeting the municipal solid waste reduction goal established in G.S.
22 130A-309.04.

23 (5) Recommendations concerning existing and potential programs for
24 solid waste reduction and recycling that would be appropriate for units
25 of local government and State agencies to implement to meet the
26 requirements of this Part.

27 (6) An evaluation of the recycling industry, the markets for recycled
28 materials, the recycling of polystyrene, and the success of State, local,
29 and private industry efforts to enhance the markets for these materials.

30 (7) Recommendations to the Governor and the Environmental Review
31 Commission to improve the management and recycling of solid waste
32 in the State, including any proposed legislation to implement the
33 recommendations.

34 (8) A description of the condition of the Solid Waste Management Trust
35 Fund and the use of all funds allocated from the Solid Waste
36 Management Trust Fund, as required by G.S. 130A-309.12(c).

37 (9) A description of the review and revision of bid procedures and the
38 purchase and use of reusable, refillable, repairable, more durable, and
39 less toxic supplies and products by both the Department of
40 Administration and the Department of Transportation, as required by
41 G.S. 130A-309.14(a1)(3).

42 (10) A description of the implementation of the North Carolina Scrap Tire
43 Disposal Act that includes the beginning and ending balances in the
44 Scrap Tire Disposal Account for the reporting period, the amount

1 credited to the Scrap Tire Disposal Account during the reporting
2 period, and the amount of revenue used for grants and to clean up
3 nuisance tire collection sites, as required by G.S. 130A-309.63(e).

4 (11) A description of the management of white goods in the State, as
5 required by G.S. 130A-309.85.

6 (12) A summary of the report by the Department of Transportation on the
7 amounts and types of recycled materials that were specified or used in
8 contracts that were entered into by the Department of Transportation
9 during the previous fiscal year, as required by G.S. 136-28.8(g).

10 (13) A summary of the reports by each State department, institution,
11 agency, community college, and local school administrative unit
12 authorized to purchase materials and supplies detailing the amounts
13 and types of materials and supplies with recycled content that were
14 purchased during the previous fiscal year and the progress toward
15 reaching the goals under G.S. 143-58.3, as required by G.S.
16 143-58.2(f).

17 (14) A description of the management of electronics in the State, as
18 required by G.S. 130A-309.97."

19 **SECTION 4.** G.S. 130A-309.94, as enacted by Section 2 of this act, reads as
20 rewritten:

21 "**§ 130A-309.94. Electronics Recycling Account.**

22 (a) The Electronics Recycling Account is established within the Department. The
23 Account consists of revenue credited to the Account from the proceeds of the
24 electronics recycling tax imposed by Article 5G of Chapter 105 of the General Statutes.

25 (b) Funds in the Account shall be allocated and used as follows:

26 (1) ~~Seventy-seven percent (77%)~~ Eighty-four percent (84%) for
27 reimbursement of units of local government.

28 (2) Ten percent (10%) for supplemental grant funding to units of local
29 government to help initiate local programs, enhance existing local
30 electronics recycling services, and encourage regionalization of local
31 electronics programs.

32 (3) ~~Seven percent (7%) for revolving loans for the development of private~~
33 ~~recycling businesses.~~

34 (4) Three percent (3%) for grants for research and development of more
35 environmentally responsible electronics.

36 (5) Three percent (3%) to the Department for the administration of the
37 public education and local government assistance program pursuant to
38 G.S. 130A-309.96."

39 **SECTION 5.** G.S. 130A-309.96(d) is repealed.

40 **SECTION 6.** G.S. 130A-309.92, as enacted by Section 2 of this act, reads as
41 rewritten:

42 "**§ 130A-309.92. Management of electronic devices.**

43 A unit of local government that contracts with a recycling processor certified by the
44 Department pursuant to G.S. 130A-309.96(d) and that implements an electronics

1 recycling program as a part of its solid waste management plan adopted pursuant to G.S.
2 130A-309.09A shall be eligible to receive reimbursement from the Electronics
3 Recycling Account. The amount of the reimbursement shall be the amount equal to ten
4 dollars (\$10.00) for each eligible device recycled by the unit of local government for
5 that quarter. The Department shall reimburse a unit of local government only after
6 receiving a statement certified by the county finance officer that includes the number of
7 eligible devices recycled by the unit of local government for that quarter. A unit of local
8 government that receives reimbursement from the Electronics Recycling Account shall
9 not charge a fee for the recycling of eligible devices. A unit of local government may
10 contract with another unit of local government or a private entity in accordance with
11 Article 15 of Chapter 153A of the General Statutes to provide for the recycling of
12 discarded electronics. A contracting party that receives reimbursement from the
13 Electronics Recycling Account shall not charge a fee for the recycling of eligible
14 devices under that contract."

15 **SECTION 7.** G.S. 130A-309.96, as enacted by Section 2 of this act, is
16 amended by adding the following subsection to read:

17 "(h) Electronics Recycling Processor Certification. – The Department shall
18 establish criteria for the certification of electronics recycling processors and shall
19 implement a program to certify processors. This criteria shall require electronics
20 recycling processors to recycle electronics in compliance with all applicable laws for the
21 protection of the environment. This criteria shall favor the domestic recycling of
22 electronics."

23 **SECTION 8.** G.S. 130A-309.10(f) reads as rewritten:

24 "(f) No person shall knowingly dispose of any of the following solid wastes in
25 landfills:

- 26 (1) Repealed by Session Laws 1991, c. 375, s. 1.
- 27 (2) Used oil.
- 28 (3) Yard trash, except in landfills approved for the disposal of yard trash
29 under rules adopted by the Commission. Yard trash that is source
30 separated from solid waste may be accepted at a solid waste disposal
31 area where the area provides and maintains separate yard trash
32 composting facilities.
- 33 (4) White goods.
- 34 (5) Antifreeze (ethylene glycol).
- 35 (6) Aluminum cans.
- 36 (7) Whole scrap tires, as provided in G.S. 130A-309.58(b). The
37 prohibition against landfilling whole tires applies to all whole
38 pneumatic rubber coverings, but does not apply to whole solid rubber
39 coverings.
- 40 (8) Lead-acid batteries, as provided in G.S. 130A-309.70.
- 41 (9) Electronic devices as defined in G.S. 130A-309.91."

42 **SECTION 9.** G.S. 130A-309.10(f1) reads as rewritten:

43 "(f1) No person shall knowingly dispose of any of the following solid wastes by
44 incineration in an incinerator for which a permit is required under this Article:

- 1 (1) Antifreeze (ethylene glycol) used solely in motor vehicles.
2 (2) Aluminum cans.
3 (3) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.
4 (4) White goods.
5 (5) Lead-acid batteries, as provided in G.S. 130A-309.70.
6 (6) Electronic devices as defined in G.S. 130A-309.91."

7 **SECTION 10.** Sections 1, 2, 3, and 10 of this act become effective 1 January
8 2004. Sections 4 and 5 of this act become effective 1 July 2006. Sections 6, 7, 8, and 9
9 of this act become effective 1 January 2007. The Department of Environment and
10 Natural Resources shall make reimbursements to units of local government under Part
11 2E of Article 9 of Chapter 130A of the General Statutes, as enacted by Section 2 of this
12 act, beginning on 1 July 2004.