

By Senator Campbell

32-330-03

1 A bill to be entitled
2 An act relating to environmental control;
3 creating s. 403.71853, F.S.; creating a program
4 for the responsible disposal of certain
5 electronic products and components; providing
6 definitions; providing duties of the Department
7 of Environmental Protection and other
8 government entities and agencies and of
9 marketers of such products and components;
10 prohibiting certain methods of disposal of such
11 products and components; providing for funding
12 the program; providing for fees for sales of
13 components and for a surcharge on waste
14 disposal; providing penalties; creating a
15 review council; providing for rules; providing
16 an effective date.

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18 WHEREAS, televisions, computers, and other electronic
19 products are omnipresent in modern society, and

20 WHEREAS, the numbers of obsolete, worn-out, or
21 otherwise unusable televisions, computers, and other
22 electronic products will surely increase in our rapidly
23 growing state, and

24 WHEREAS, the cathode ray tube found in almost every
25 discarded television and computer monitor is the most
26 problematic material in discarded electronic products because
27 of its lead content and because of the negative value of the
28 glass and other constituent materials, and

29 WHEREAS, the printed circuit boards found in almost
30 every discarded electronic product can be problematic due to
31 the lead content of the solder, and

1 WHEREAS, cathode ray tubes and printed circuit boards
2 are estimated to be the largest source of lead in the state's
3 municipal solid waste stream, and

4 WHEREAS, many flat-panel-display televisions, computer
5 monitors, and laptop computers contain a mercury-containing
6 lamp for backlighting purposes, and

7 WHEREAS, the reuse, repair, or recycling of
8 televisions, computers, and other electronic products can:
9 protect public health and the environment by reducing the
10 potential for the release of lead and mercury from landfills
11 and municipal waste combustors into the environment; provide
12 jobs and business opportunities for Floridians; recover
13 valuable components and materials; and conserve valuable
14 landfill space, and

15 WHEREAS, the responsibility for the environmentally
16 sound management and product stewardship of end-of-life
17 electronics products ought to be shared among the
18 consumer/purchaser, the manufacturer, and state and local
19 government waste management agencies, and

20 WHEREAS, due in large part to the cost of collecting
21 and recycling many electronic products, no other system
22 currently exists, either provided by electronics
23 manufacturers, governmental entities, or others, to adequately
24 serve Floridians and divert large quantities of end-of-life
25 electronics products from disposal, and

26 WHEREAS, such a system should maximize the use of
27 market drivers, NOW, THEREFORE,

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29 Be It Enacted by the Legislature of the State of Florida:

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1 Section 1. Section 403.71853, Florida Statutes, is
2 created to read:

3 403.71853 Shared responsibility for end-of-life
4 electronic products.--

5 (1) DEFINITIONS.--As used in this section, the term:

6 (a) "Cathode ray tube" means a vacuum-sealed,
7 enclosed, electron-stream-activated video display device that
8 contains leaded glass as a major component.

9 (b) "Central processing unit" means the circuit
10 boards, components, and associated circuitry system that
11 processes electronic information in a computer and the case
12 that contains such a system.

13 (c) "Circuit board" means a printed wiring board and
14 attached components that are used to control the flow of
15 electrons and that contain solder with lead as a component.

16 (d) "Computer monitor" means a device that visually
17 displays the information generated by a computer system.

18 (e) "Covered electronic product" means any electronic
19 product that contains a cathode ray tube or mercury-containing
20 lamp or is otherwise specifically designated as provided in
21 this section or by the review council under subsection (5) and
22 that is subject to the requirements of this section. The
23 definition includes, but is not limited to, televisions and
24 computer monitors that contain either a cathode ray tube or
25 mercury-containing lamp, central processing units, laptop
26 computers, and computer peripherals such as keyboards,
27 printers, and scanners.

28 (f) "Electronic product" means any product, especially
29 a communication or information-processing device, powered
30 principally by electricity delivered by an electrical cord,
31 wire, or cable; battery; or solar cell. In addition to

1 televisions and computer systems, the definition includes, but
2 is not limited to, radios, electronic disc/tape recorders and
3 players, copiers, facsimile machines, portable telephones,
4 answering machines, electronic game consoles, portable digital
5 assistants, and other products designed for transmitting
6 sound, images, or other information by telecommunication.

7 (g) "Marketer" means a person who manufactures,
8 imports, sells, distributes, assembles, or affixes a brand
9 name or private label or licenses the use of a brand name on a
10 covered electronic product. The definition does not include a
11 person who is engaged in only the retail sale of a covered
12 electronic product.

13 (h) "Proceeds" means those funds collected by
14 imposition of the advance recycling fee and received by the
15 Department of Revenue, including interest and penalties on
16 delinquent fees.

17 (i) "Product management system" means a system or
18 program for the collection, reuse, recycling, or proper
19 disposal of covered electronic products put in place by a
20 marketer in accordance with this section.

21 (j) "Purchaser" includes private households and
22 commercial, industrial, institutional, and other sources of
23 covered electronic products that would typically enter
24 municipal waste streams.

25 (k) "Retail sales" includes sales of products via the
26 Internet, mail order, or other means, whether or not the
27 seller has a physical presence in this state.

28 (l) "Reuse" means the use of covered electronic
29 products for resale, donation, or harvesting of spare parts.

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1 (m) "Television" means an electronic device that
2 receives electromagnetic waves and displays the reconverted
3 images on a screen.

4 (2) PROHIBITION ON INCINERATION OR DISPOSAL OF
5 ELECTRONIC PRODUCTS.--

6 (a) Beginning January 1, 2004, for each county with a
7 population of 100,000 or more, and beginning January 1, 2006,
8 for each county with a population of fewer than 100,000,
9 covered electronic products may not be disposed of in a lined
10 or unlined landfill or incinerated in any municipal waste
11 combustor or other incinerator.

12 (b) This section is intended to create additional and
13 cumulative limitations on the disposal of covered electronic
14 products and may not be construed as authorizing the disposal
15 of materials that are otherwise restricted by federal or state
16 law, rule, regulation, or permit condition.

17 (3) FUNDING.--

18 (a) State grants to counties.--The sum of \$400,000 is
19 appropriated from the Solid Waste Management Trust Fund
20 annually through fiscal year 2007-2008 to the Department of
21 Environmental Protection, subject to availability of funds,
22 for electronics recycling grants to counties or to businesses
23 based in this state to establish countywide comprehensive
24 electronics recycling programs as established in s. 403.71851.

25 (b) Advance recycling fees.--

26 1. For the privilege of engaging in business, a fee
27 for each television or computer monitor containing a cathode
28 ray tube and for any other covered electronic product
29 subsequently identified under subsection (5) sold at retail is
30 imposed on any person engaging in the business of making
31 retail sales of electronic products within this state.

1 Beginning January 1, 2004, the fee shall be imposed at the
2 rate of \$10 for each product. The seller must provide notice
3 to a purchaser that the advance recycling fee has been imposed
4 on this product by identifying the fee on the cash receipt or
5 by a display, sign, or notice in a prominent area of the store
6 that the fee is being imposed.

7 2. The fee imposed by this section shall be remitted
8 to the Department of Revenue monthly. The payment shall be
9 accompanied by such form as the Department of Revenue
10 prescribes. The proceeds of the electronic product advance
11 recycling fee, less administrative costs, shall be transferred
12 by the Department of Revenue into the Solid Waste Management
13 Trust Fund and shall be accounted for separately in an
14 electronics recycling account. The amount deducted for the
15 costs of administration may not exceed 3 percent of the total
16 revenues collected under this paragraph and shall be only
17 those costs reasonably attributable to the fee.

18 3. In the last month of each fiscal year, the
19 electronics recycling account shall be apportioned among all
20 counties that have an electronics recycling program approved
21 by the Department of Environmental Protection on the basis of
22 population, and the Department of Revenue shall transfer such
23 moneys to each eligible county. In order to be approved, a
24 program must, at a minimum, provide an opportunity for
25 recycling electronic products and provide public education
26 about electronic-product-recycling services.

27 (c) Solid waste disposal fee surcharge.--Each county
28 shall impose a surcharge on its solid waste disposal fees to
29 help fund its electronic product recycling program. Beginning
30 January 1, 2004, the surcharge shall be imposed at the rate of
31 \$__ per ton of solid waste collected for disposal in a

1 landfill or municipal waste combustor service as is currently
2 reported annually to the Department of Environmental
3 Protection. Such surcharge shall apply to Class I or Class II
4 municipal solid waste whether or not it is disposed of in a
5 facility within the county. Such surcharge shall be collected
6 from the solid waste service ratepayers rather than at the
7 solid waste disposal facility. Each county shall retain its
8 surcharges in an account earmarked for and spent on its
9 electronics recycling program.

10 (4) MARKETER PRODUCT MANAGEMENT SYSTEM.--

11 (a) Effective January 1, 2006, each marketer that
12 sells and distributes covered electronic products in this
13 state must:

14 1. Implement a product management system, other than a
15 local government collection system, unless the local
16 government agrees otherwise, through which covered electronic
17 products may be returned to designated collection sites and
18 submit a description of this system to the Department of
19 Environmental Protection. The product management system may
20 not impose any additional costs or fees on the final
21 purchaser. The product management system must be accessible
22 for consumers and for local governments that collect covered
23 electronic products from household users. Marketers shall
24 accept covered electronic products returned to them of the
25 same general type, including differing brands, not to exceed
26 the same annual rate as covered electronic products
27 manufactured by them are sold in this state. Marketers shall
28 provide for and have the sole responsibility for the
29 recycling, reuse, or proper disposal of covered electronic
30 products returned to them.

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1 2. Clearly inform each purchaser of the system for
2 return available to the purchaser for proper product
3 collection, transportation, reuse, recycling, or disposal. A
4 telephone number and electronic website address must be
5 provided to each final purchaser of a covered electronic
6 product so that the final purchaser can conveniently get
7 information on returning the products for reuse, recycling, or
8 proper disposal. The telephone number and electronic website
9 address shall be affixed to either the exterior of the product
10 or, for smaller products, its package and also provided in the
11 instruction manual for the product in substantially the
12 following form: "For information on how to recycle this
13 product, call (telephone number) or visit (website address)."

14 (b) Marketers may satisfy the requirements of this
15 section individually or as part of a representative
16 organization of marketers. Representative organizations of
17 marketers shall supply to the department a list of those
18 organization members for whom the association is satisfying
19 the requirements of this subsection.

20 (c) On January 1, 2007, and each January 1 thereafter,
21 each marketer shall provide to the department an annual report
22 on its product management system. The report shall include, at
23 a minimum, an estimate of the number of covered electronic
24 products that were sold in the state in the previous year; an
25 estimate of the number and weight of covered electronic
26 products collected in the state in the previous year; the
27 capture rate for covered electronic products based on state
28 sales; an estimate of the percentage by weight of collected
29 materials that are reused and recycled from recovered covered
30 electronic products; the end markets for major constituents of

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1 the recovered covered electronic products; and other
2 information the department requires.

3 (d) By January 1, 2005, each marketer shall submit to
4 the department for its approval a plan describing how the
5 marketer will satisfy the requirements of paragraphs (a) and
6 (b). The department shall review submitted plans, request
7 additional information as necessary, and approve or disapprove
8 the plans within 6 months after submittal.

9 (e) Marketers of covered electronic products who do
10 not comply with the requirements of this subsection may not
11 sell, distribute, or offer for sale in this state covered
12 electronic products.

13 (f) A marketer that violates any provision of this
14 subsection is subject to a minimum fine of \$100 per violation
15 for each covered electronic product that is sold, distributed,
16 or offered for sale in this state.

17 (5) COVERED ELECTRONIC PRODUCTS REVIEW COUNCIL.--

18 (a) There is created the Covered Electronic Products
19 Review Council, to be administratively housed in the
20 Department of Environmental Protection. The purpose of the
21 council is to serve as the mechanism for coordination among
22 the Legislature, state and local governments, and the private
23 sector to coordinate policy and overall strategic planning for
24 review of progress to date of the statewide program for the
25 environmentally preferable management of covered electronic
26 products and to make recommendations to the Governor and
27 Legislature for changes to this program. The council may not
28 duplicate or replace agency programs but may enhance,
29 coordinate, and recommend priorities for those programs as it
30 makes recommendations to the Governor and Legislature.

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1 (b) The council shall consist of 12 members, four each
2 to be appointed by the Governor, the President of the Senate,
3 and the Speaker of the House of Representatives, each of whom
4 is or has been actively engaged in the recycling industry,
5 manufacturing electronic products, economic development, solid
6 waste management, or a related business, trade association, or
7 governmental area.

8 (c) Members of the council shall be appointed within 6
9 months after this section takes effect.

10 (d) A chairperson shall be selected from among the
11 council members.

12 (e) The council shall meet at the call of its
13 chairperson or at the request of a majority of the membership,
14 but at a minimum shall meet 6 months prior to the next
15 regularly scheduled legislative session. A majority of the
16 members shall constitute a quorum, and the affirmative vote of
17 a majority of a quorum is necessary to make recommendations to
18 the Governor and Legislature.

19 (f) Members of the council shall serve without
20 compensation but are entitled to reimbursement for per diem
21 and travel expenses as provided in s. 112.061.

22 (g) The council may appoint ad hoc committees, which
23 may include persons who are not members of the council, to
24 study end-of-life electronic product management and issues and
25 advise the council on these subjects. Ad hoc committee members
26 are entitled to reimbursement for per diem and travel expenses
27 as provided in s. 112.061.

28 (h) The Department of Environmental Protection shall
29 coordinate with the agencies listed in paragraph (i) to
30 provide support as necessary to enable the council to
31 adequately carry out its functions.

1 (i) The heads of Department of Environmental
2 Protection, the Department of Management Services, the
3 Department of Revenue, and the State Technology Office and the
4 Governor shall each designate a staff member from within their
5 agency to serve as a liaison for that agency to the council.
6 This person must have knowledge of recycling and the issues
7 and problems related to recycling and market development, tax
8 collection, or state purchasing or leasing arrangements. These
9 liaisons shall be available for council meetings and shall
10 work closely with the council and any ad hoc committee
11 appointed by the council in preparing background material for
12 recommendations that may be put forward by the council.

13 (j) Within 6 months after the effective date of this
14 section, and whenever it is necessary to change the designee,
15 the head of each agency shall notify the Secretary of the
16 Department of Environmental Protection in writing of the
17 person designated as the council liaison for such agency.

18 (k) In order to support the functions of the council,
19 the Department of Environmental Protection may hire staff or
20 contract with other agencies for staff support and enter into
21 contracts for support, research, planning, evaluation, and
22 communication and promotion services.

23 (l) Beginning with the 2006 Regular Session of the
24 Legislature, the council shall submit to the Governor, the
25 President of the Senate, and the Speaker of the House of
26 Representatives a detailed report on the management of
27 end-of-life electronic products in this state under existing
28 law and recommendation for statutory changes.

29 (m) In developing the report and recommended statutory
30 changes, the council shall consider, as appropriate:

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- 1 1. The appropriateness and level of the advance
2 recycling fee.
- 3 2. The covered electronic products that the advance
4 recycling fee is placed upon.
- 5 3. The need to continue or adjust the grants offered
6 by the state.
- 7 4. The need to continue and the level of the solid
8 waste surcharge imposed on solid waste disposal by local
9 governments.
- 10 5. The requirements placed upon marketers and
11 manufacturers to submit product management plans and the
12 details to be provided within those plans.
- 13 6. The effect that Internet, catalogue, and phone
14 sales have on the revenue collected by the advance recycling
15 fee collected at retail point of sale.
- 16 7. The rate of recovery or recycling of covered
17 electronic products and the need and methods to increase the
18 rate of recovery or recycling.
- 19 8. The need to modify any dates set out in the current
20 statutes.
- 21 9. Reviewing state procurement guidelines and
22 procedures for electronic equipment, especially computers,
23 focusing on leasing agreements as opposed to outright purchase
24 of such equipment.
- 25 10. The markets for materials derived from recovering
26 or recycling covered electronic products and the need for any
27 incentives to strengthen or develop these markets.
- 28 11. The current infrastructure of private end-of-life
29 electronic products recovery or recycling businesses in the
30 state and the need to offer incentives to increase this
31 market.

1 12. The number of collection and consolidation centers
2 in each county and the effectiveness and convenience of these
3 collection and consolidation centers in managing the amount of
4 covered electronic products available to enter the recovery
5 and recycling streams.

6 13. A review of federal legislation covering
7 electronics product recycling or product management programs
8 and a recommendation to repeal the state program or merge the
9 state program into the federal program.

10 (6) RULES.--The department may adopt rules to
11 administer this section, including:

12 (a) The recognition of de minimis quantities of
13 electronic products in connection with the disposal
14 prohibition in subsection (2);

15 (b) Criteria by which county electronics recycling
16 programs in paragraph (3)(b) will be evaluated and approved;
17 and

18 (c) Criteria by which product management programs in
19 subsection (4) shall be evaluated and approved.

20 Section 2. This act shall take effect July 1, 2003.

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23 SENATE SUMMARY

24 Provides for counties to establish programs for properly
25 recycling or otherwise disposing of televisions, computer
26 monitors, and other electronic equipment and components
27 of such equipment. Requires marketers of such equipment
28 to be responsible for accepting and handling such
29 equipment when it is returned for disposal by its
30 purchasers. Imposes an advance recycling fee to be
31 collected by marketers and a waste disposal surcharge to
 be collected by counties to fund recycling and disposal
 programs. Provides for review and approval of such
 programs. (See bill for details.)