

AMENDMENTS TO LB 986

Introduced by Preister, 5.

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Sections 1 to 11 of this act shall be known
4 and may be cited as the Electronics Recycling Act.

5 Sec. 2. The purpose of the Electronics Recycling Act is
6 to establish a comprehensive electronic device recycling system
7 that ensures the safe and environmentally sound management of
8 electronic devices and encourages the design of electronic devices
9 that are recyclable and less toxic.

10 Sec. 3. For purposes of the Electronics Recycling Act:

11 (1) Computer means a desktop, portable or laptop,
12 electronic, magnetic, optical, electrochemical, or other high-speed
13 data processing device which is capable of performing logical,
14 arithmetic, or storage functions, and includes, but is not limited
15 to, a computer central processing unit and a monitor. Computer
16 does not include an automated typewriter or typesetter, a portable
17 handheld calculator, a portable digital assistant, or other similar
18 device;

19 (2) Department means the Department of Environmental
20 Quality;

21 (3) (a) Electronic device means a computer, monitor, video
22 display device, or television, intended for use in a home or
23 residential environment and marketed to the general public; and

1 (b) Electronic device does not include:

2 (i) An electronic device that is a part of a motor
3 vehicle or any component part of a motor vehicle assembled by
4 or for a vehicle manufacturer or franchise dealer, including
5 replacement parts for use in a motor vehicle;

6 (ii) An electronic device that is functionally or
7 physically a part of a larger piece of equipment that is designed
8 or intended for use in an industrial, commercial, governmental,
9 or medical setting, including diagnostic, monitoring, or control
10 equipment;

11 (iii) An electronic device that is contained within
12 a clothes washer, clothes dryer, refrigerator, refrigerator and
13 freezer, microwave oven, conventional oven or range, dishwasher,
14 room air conditioner, dehumidifier, or air purifier; or

15 (iv) A telephone of any type unless it contains a video
16 display area greater than nine inches measured diagonally or any
17 hand-held device used to access commercial mobile radio service as
18 referenced in 47 C.F.R. 20.9, as such regulation existed on January
19 1, 2008;

20 (4) Manufacturer means a person who:

21 (a) Sells electronic devices under its own brand or label
22 for sale in the United States;

23 (b) Sells electronic devices in this state without
24 affixing a brand or label onto such device;

25 (c) Resells in this state under its own brand or label
26 electronic devices manufactured by another firm or entity, unless
27 the firm or entity which manufactured the electronic devices sold

1 under the brand or label of the reseller meets the registration
2 requirements of the act;

3 (d) Imports electronic devices into the United States. If
4 the company from whom an importer purchases the electronic device
5 has a presence or assets in the United States, that company shall
6 be deemed to be the manufacturer; or

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

11 (5) Monitor means a separate video display component of
12 a computer that does not contain a tuner, whether sold separately
13 or together with a computer central processing unit or computer
14 box, and includes a cathode ray tube, liquid crystal display,
15 gas plasma, digital light processing, or other image projection
16 technology having a viewable area greater than four inches when
17 measured diagonally, and its case, interior wires, and circuitry;

18 (6) Recycling means any process by which an electronic
19 device that would otherwise have become solid waste or hazardous
20 waste is collected, separated, and processed to be returned to
21 use in the form of raw materials or products or is refurbished or
22 donated for reuse;

23 (7) Television means a stand-alone display system
24 containing a cathode ray tube, liquid crystal display, gas plasma,
25 digital light processing, or other type of display primarily
26 intended to receive video programming via broadcast, having a
27 viewable area greater than four inches when measured diagonally,

1 able to adhere to standard consumer video requirements, and having
2 the capability of selecting different broadcast channels and
3 support sound capability; and

4 (8) Video display device means a device that has an
5 output surface having a viewable area greater than four inches
6 when measured diagonally that displays moving graphical images or
7 a visual representation of image sequences or pictures and shows a
8 number of quickly changing images on a screen in fast succession
9 to create the illusion of motion, including, but not limited to,
10 a device that is an integral part of the display that cannot be
11 easily removed from the display by the consumer and that produces
12 the moving image on the screen and includes technology using a
13 cathode ray tube, liquid crystal display, gas plasma, digital light
14 processing, or other image projection technology.

15 Sec. 4. Beginning July 1, 2009, no manufacturer shall
16 offer for sale in this state a new electronic device if the
17 manufacturer is not in compliance with the Electronics Recycling
18 Act.

19 Sec. 5. (1) On or before January 31, 2009, and each
20 January 31 thereafter, a manufacturer who sold at least five
21 hundred electronic devices in this state in the previous calendar
22 year shall register and certify with the department whether the
23 number of electronic devices sold in this state by the manufacturer
24 in the previous calendar year falls within subdivision (1)(a),
25 (b), or (c) of section 6 of this act and which subdivision is
26 applicable.

27 (2) On or before January 31, 2010, and each January 31

1 thereafter, in order to receive a reduction in the registration fee
2 pursuant to subsection (2) of section 6 of this act, a manufacturer
3 or group of manufacturers shall certify to the department that the
4 manufacturer or manufacturers have recycled a minimum of thirty
5 percent of the number of electronic devices that the manufacturer
6 or manufacturers sold in this state in the previous calendar year
7 in a manner that is in compliance with all applicable federal,
8 state, and local laws, regulations, and ordinances and that the
9 electronic devices were not exported for disposal in a manner that
10 poses a significant risk to the public health or the environment.

11 Sec. 6. (1) On or before January 31, 2009, and each
12 January 31 thereafter, a manufacturer shall remit to the department
13 the following registration fee based on the number of electronic
14 devices sold in this state by the manufacturer in the previous
15 calendar year:

16 (a) One thousand dollars for sales of five hundred to one
17 thousand electronic devices;

18 (b) Seven thousand five hundred dollars for sales of more
19 than one thousand to five thousand electronic devices; or

20 (c) Twenty thousand dollars for sales of more than five
21 thousand electronic devices.

22 (2) Beginning January 31, 2009, the registration fee
23 shall be fifty percent of the required registration fee prescribed
24 in subsection (1) of this section if the manufacturer or group of
25 manufacturers has certified to the department that the requisite
26 number of electronic devices was recycled as described in
27 subsection (2) of section 5 of this act.

1 Sec. 7. The department shall:

2 (1) Collect the fees as prescribed in section 6 of this
3 act and remit such fees to the State Treasurer for credit to the
4 Waste Reduction and Recycling Incentive Fund;

5 (2) Beginning in FY2010-11 and each fiscal year
6 thereafter, review and adjust the fee structure in section 6 of
7 this act to ensure that fees are adequate to collect a minimum
8 of one million dollars and a maximum of one million five hundred
9 thousand dollars in the following fiscal year; and

10 (3) Exercise all powers necessary and appropriate to
11 carry out the Electronics Recycling Act.

12 Sec. 8. A manufacturer shall provide, at no cost to
13 the consumer, a method of returning an electronic device to
14 the manufacturer, including a postage-paid mailing package or
15 designated collection points throughout the state, and shall not
16 impose a fee or other charge on a consumer for the collection,
17 transportation, handling, recycling, or reuse of electronic devices
18 at the time and place of collection for recycling.

19 Sec. 9. The Director of Environmental Quality shall
20 discontinue the collection of fees under the Electronics Recycling
21 Act if he or she determines that a federal law or laws have taken
22 effect and that such law or laws are applicable to all electronic
23 devices sold in the United States and establish a program for
24 the collection and recycling or reuse of all electronic devices
25 discarded by consumers.

26 Sec. 10. All fees remitted pursuant to the Electronics
27 Recycling Act, after deducting costs of program administration,

1 shall be used pursuant to subsection (6) of section 81-15,160
2 to award grants for education and information about electronics
3 recycling, infrastructure development, and the collection,
4 transportation, and recycling of electronic devices. Any unused
5 fees shall be carried over and available for grants in the
6 following year.

7 Sec. 11. The Environmental Quality Council may adopt
8 and promulgate rules and regulations to carry out the Electronics
9 Recycling Act.

10 Sec. 12. Section 81-1504.01, Revised Statutes Supplement,
11 2007, is amended to read:

12 81-1504.01 The Department of Environmental Quality shall
13 provide the following information to the Governor and to the Clerk
14 of the Legislature by December 1 of each year:

15 (1) A report by type of service or aid provided by the
16 use and distribution of federal funds received by the department.
17 The report shall also include user fees, permit fees, license
18 fees, and application fees authorized by the federal Environmental
19 Protection Agency as follows:

20 (a) Actual expenditure of each grant or authorized fees
21 for the most recently completed state fiscal year, including state
22 matching funds;

23 (b) Current budget and planned use and distribution of
24 each grant and authorized fees for the current state fiscal year,
25 including state matching funds;

26 (c) A summary of the projected funding level of each
27 grant and authorized fees and the impact of federal mandates and

1 regulations upon the future use of each grant and authorized fees;
2 and

3 (d) Program summaries including statistical summaries
4 when applicable for the most recently completed state fiscal year
5 and program activity goals for the current state fiscal year;

6 (2) A summary of regulations of the federal Environmental
7 Protection Agency which the department is required to implement and
8 which do not include federal funding assistance and the possible
9 financial impact to the state and political subdivisions;

10 (3) A report by type of service or aid provided by the
11 use and distribution of state general and cash funds, including
12 user fees, permit fees, license fees, and application fees, to
13 carry out activities that are not funded by federal grants as
14 follows:

15 (a) Actual expenditure of state funds, by agency
16 sections, for the most recently completed state fiscal year,
17 including a breakdown of expenditures by personal services,
18 operations, travel, capital outlay, and consulting and contractual
19 services;

20 (b) Current budget and planned use and distribution of
21 state funds, by agency sections, for the current state fiscal
22 year, including a breakdown of expenditures for personal services,
23 operations, travel, capital outlay, and consulting and contractual
24 services;

25 (c) A summary of projected program funding needs based
26 upon the statutory requirements and public demand for services and
27 the department's assessment of anticipated needs statewide; and

1 (d) Program summaries including statistical summaries
2 when applicable for the most recently completed state fiscal year
3 and program activity goals for the current state fiscal year;

4 (4) A report regarding staff turnover by job class and
5 the department's assessment of its ability to hire and retain
6 qualified staff considering the state's personnel pay plan;

7 (5) A report listing the method used by each new or
8 existing licensee, permittee, or other person who is required by
9 the department to establish proof of financial responsibility; and

10 (6) A report for the previous state fiscal year relating
11 to the purpose of the Nebraska Litter Reduction and Recycling
12 Act and of funds credited to the Nebraska Litter Reduction and
13 Recycling Fund; and -

14 (7) A report for the previous state fiscal year relating
15 to the funds credited to the Waste Reduction and Recycling
16 Incentive Fund pursuant to section 7 of this act.

17 Sec. 13. Section 81-15,160, Revised Statutes Supplement,
18 2007, is amended to read:

19 81-15,160 (1) The Waste Reduction and Recycling Incentive
20 Fund is created. The department shall deduct from the fund amounts
21 sufficient to reimburse itself for its costs of administration
22 of the fund. The fund shall be administered by the Department
23 of Environmental Quality. The fund shall consist of proceeds from
24 the fees imposed pursuant to the Waste Reduction and Recycling
25 Incentive Act and the Electronics Recycling Act.

26 (2) The fund may be used for purposes which include, but
27 are not limited to:

1 (a) Technical and financial assistance to political
2 subdivisions for creation of recycling systems and for modification
3 of present recycling systems;

4 (b) Recycling and waste reduction projects, including
5 public education, planning, and technical assistance;

6 (c) Market development for recyclable materials separated
7 by generators, including public education, planning, and technical
8 assistance;

9 (d) Capital assistance for establishing private and
10 public intermediate processing facilities for recyclable materials
11 and facilities using recyclable materials in new products;

12 (e) Programs which develop and implement composting of
13 yard waste and composting with sewage sludge;

14 (f) Technical assistance for waste reduction and waste
15 exchange for waste generators;

16 (g) Programs to assist communities and counties to
17 develop and implement household hazardous waste management
18 programs; and

19 (h) Capital assistance for establishing private and
20 public facilities to manufacture combustible waste products and
21 to incinerate combustible waste to generate and recover energy
22 resources, except that no disbursements shall be made under this
23 section for scrap tire processing related to tire-derived fuel.

24 The State Treasurer shall transfer two million one
25 hundred thousand dollars from the Waste Reduction and Recycling
26 Incentive Fund to the General Fund within five days after August
27 ~~16, 2002.~~

1 (3) Grants up to one million dollars annually shall be
2 available until June 30, 2009, for new scrap tire projects only, if
3 acceptable scrap tire project applications are received. Eligible
4 categories of disbursement under section 81-15,161 may include, but
5 are not limited to:

6 (a) Reimbursement for the purchase of crumb rubber
7 generated and used in Nebraska, with disbursements not to exceed
8 fifty percent of the cost of the crumb rubber;

9 (b) Reimbursement for the purchase of tire-derived
10 product which utilizes a minimum of twenty-five percent recycled
11 tire content, with disbursements not to exceed twenty-five percent
12 of the product's retail cost; ~~except that persons who applied for~~
13 ~~a grant between June 1, 1999, and May 31, 2001, for the purchase~~
14 ~~of tire-derived product which utilizes a minimum of twenty-five~~
15 ~~percent recycled tire content may apply for reimbursement on or~~
16 ~~before July 1, 2002. Reimbursement shall not exceed twenty-five~~
17 ~~percent of the product's retail cost and may be funded in fiscal~~
18 ~~years 2001-02 and 2002-03;~~

19 (c) Participation in the capital costs of building,
20 equipment, and other capital improvement needs or startup costs
21 for scrap tire processing or manufacturing of tire-derived product,
22 with disbursements not to exceed fifty percent of such costs or
23 five hundred thousand dollars, whichever is less;

24 (d) Participation in the capital costs of building,
25 equipment, or other startup costs needed to establish collection
26 sites or to collect and transport scrap tires, with disbursements
27 not to exceed fifty percent of such costs;

1 (e) Cost-sharing for the manufacturing of tire-derived
2 product, with disbursements not to exceed twenty dollars per ton
3 or two hundred fifty thousand dollars, whichever is less, to any
4 person annually;

5 (f) Cost-sharing for the processing of scrap tires, with
6 disbursements not to exceed twenty dollars per ton or two hundred
7 fifty thousand dollars, whichever is less, to any person annually;

8 (g) Cost-sharing for the use of scrap tires for civil
9 engineering applications for specified projects, with disbursements
10 not to exceed twenty dollars per ton or two hundred fifty thousand
11 dollars, whichever is less, to any person annually; and

12 (h) Disbursement to a political subdivision up to one
13 hundred percent of costs incurred in cleaning up scrap tire
14 collection and disposal sites.

15 The director shall give preference to projects which
16 utilize scrap tires generated and used in Nebraska.

17 (4) Priority for grants made under section 81-15,161
18 shall be given to grant proposals demonstrating a formal
19 public/private partnership except for grants awarded from fees
20 collected under subsection (6) of section 13-2042.

21 (5) Grants awarded from fees collected under subsection
22 (6) of section 13-2042 may be renewed for up to a five-year
23 grant period. Such applications shall include an updated integrated
24 solid waste management plan pursuant to section 13-2032. Annual
25 disbursements are subject to available funds and the grantee
26 meeting established grant conditions. Priority for such grants
27 shall be given to grant proposals showing regional participation

1 and programs which address the first integrated solid waste
2 management hierarchy as stated in section 13-2018 which shall
3 include toxicity reduction. Disbursements for any one year shall
4 not exceed fifty percent of the total fees collected after rebates
5 under subsection (6) of section 13-2042 during that year.

6 (6) Grants for education and information about
7 electronics recycling, infrastructure development, and the
8 collection, transportation, and recycling of electronic devices
9 shall be awarded by the Department of Environmental Quality.

10 ~~(6)~~ (7) Any person who stores waste tires in violation
11 of section 13-2033, which storage is the subject of abatement
12 or cleanup, shall be liable to the State of Nebraska for the
13 reimbursement of expenses of such abatement or cleanup paid by the
14 Department of Environmental Quality.

15 ~~(7)~~ (8) The Department of Environmental Quality may
16 receive gifts, bequests, and any other contributions for deposit
17 in the Waste Reduction and Recycling Incentive Fund. Any money in
18 the fund available for investment shall be invested by the state
19 investment officer pursuant to the Nebraska Capital Expansion Act
20 and the Nebraska State Funds Investment Act.

21 Sec. 14. If any section in this act or any part of any
22 section is declared invalid or unconstitutional, the declaration
23 shall not affect the validity or constitutionality of the remaining
24 portions.

25 Sec. 15. Original sections 81-1504.01 and 81-15,160,
26 Revised Statutes Supplement, 2007, are repealed.