

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 986

Introduced by Preister, 5; Carlson, 38; Christensen, 44; Dierks,
40; Dubas, 34; Fischer, 43; Kopplin, 3; Wallman, 30.

Read first time January 15, 2008

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to recycling; to amend section 81-15,160,
2 Revised Statutes Supplement, 2007; to adopt the
3 Electronics Recycling Act; to provide fees; to harmonize
4 provisions; to provide severability; and to repeal the
5 original section.

6 Be it enacted by the people of the State of Nebraska,

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

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

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

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

18 (2) Consumer means an individual who purchases an
19 electronic device from a retailer for use by a member of his or
20 her household;

21 (3) Department means the Department of Environmental
22 Quality;

23 (4) (a) Electronic device means a computer, video display
24 device, or television; and

25 (b) An electronic device shall not be considered

1 hazardous waste, household waste, solid waste, or special waste and
2 does not include:

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

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

17 (5) Manufacturer means a person who:

18 (a) Sells electronic devices under his, her, or its own
19 brand or label for sale in the United States;

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

22 (c) Resells in this state under its own brand or label
23 electronic devices manufactured by another firm or entity, unless
24 the firm or entity which manufactured the electronic devices sold
25 under the brand or label of the reseller meets the registration

1 requirements of the act;

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

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

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

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

22 (8) Retailer means a person who owns or operates a retail
23 business that sells new electronic devices in this state by any
24 means to a consumer;

25 (9) Television means a stand-alone display system

1 containing a cathode ray tube, liquid crystal display, gas plasma,
2 digital light processing, or other type of display primarily
3 intended to receive video programming via broadcast, having a
4 viewable area greater than four inches when measured diagonally,
5 able to adhere to standard consumer video requirements, and having
6 the capability of selecting different broadcast channels and
7 support sound capability; and

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

19 Sec. 4. (1) Beginning January 31, 2009, and each January
20 31 thereafter, a retailer shall provide to the department the
21 name, brand, or label of each manufacturer whose electronic devices
22 are offered for sale by the retailer and the number of each
23 manufacturer's electronic devices sold in the previous calendar
24 year.

25 (2) Beginning July 1, 2009, no retailer shall offer for

1 sale in this state a new electronic device from a manufacturer that
2 is not in compliance with the Electronics Recycling Act.

3 (3) Retailers of electronic devices in this state shall
4 consult the list compiled pursuant to section 7 of this act
5 prior to the selling of any such electronic device. A retailer
6 shall be deemed to have complied with the requirements of this
7 subsection if, on the date an electronic device was ordered from
8 the manufacturer or its agent by the retailer, the manufacturer was
9 included on such list.

10 Sec. 5. (1) Beginning January 31, 2009, and each January
11 31 thereafter, a manufacturer shall register with the department
12 and report the number of electronic devices sold in this state by
13 the manufacturer in the previous calendar year.

14 (2) A manufacturer or group of manufacturers may submit
15 a plan to collect, transport, and recycle electronic devices in
16 order to receive a reduction of the registration fee as described
17 in section 6 of this act.

18 (3) If a manufacturer fails to comply with the conditions
19 and terms of such plan as approved by the department, it shall
20 submit the registration fee required by section 6 of this act.

21 (4) A manufacturer not in compliance with the Electronics
22 Recycling Act shall not offer an electronic device for sale in this
23 state until the manufacturer is deemed by the department to be in
24 compliance with the act.

25 Sec. 6. (1) Beginning March 15, 2009, and each March

1 15 thereafter, a plan submitted pursuant to section 5 of this
2 act shall be reviewed and decided upon by the department. The
3 department may reject the plan in whole or in part and may impose
4 additional requirements as a condition of approval.

5 (2) Beginning March 15, 2009, and each March 15
6 thereafter, the department shall notify a manufacturer as to the
7 amount of the manufacturer's registration fee which shall be
8 remitted pursuant to this section.

9 (3) Beginning April 15, 2009, and each April 15
10 thereafter, a manufacturer shall remit the following registration
11 fee to the department based on the number of electronic devices
12 sold in the previous calendar year:

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

15 (b) Five thousand dollars for sales of more than one
16 thousand to two thousand five hundred electronic devices;

17 (c) Seven thousand five hundred dollars for sales of more
18 than two thousand five hundred electronic devices; or

19 (d) Fifty percent of the required fee prescribed in
20 this subsection if the manufacturer has received notice from the
21 department that its plan has been approved.

22 Sec. 7. The department shall:

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

1 (2) Review and may approve the plan pursuant to section
2 6 of this act;

3 (3) Maintain a list of all manufacturers in compliance
4 with the Electronics Recycling Act and publish such list on its web
5 site; and

6 (4) Exercise all powers necessary and appropriate to
7 carry out the act.

8 Sec. 8. No manufacturer shall charge a fee to a consumer
9 for the collection, transportation, or recycling of an electronic
10 device under the Electronics Recycling Act.

11 Sec. 9. It is the intent of the Legislature that the
12 Electronics Recycling Act cover all aspects of infrastructure
13 development and the collection, transportation, and recycling of
14 electronic devices. If a federal program is adopted to collect,
15 transport, and recycle electronic devices which is at least
16 as stringent as the Electronics Recycling Act, the Electronics
17 Recycling Act shall terminate.

18 Sec. 10. The department shall adopt and promulgate rules
19 and regulations for the distribution of grants from fees collected
20 under the Electronics Recycling Act and remitted to the Waste
21 Reduction and Recycling Incentive Fund. All fees remitted pursuant
22 to the act shall be used pursuant to subsection (6) of section
23 81-15,160 to award grants for infrastructure development and the
24 collection, transportation, and recycling of electronic devices.
25 Any unused fees shall be carried over and available for grants in

1 the following year.

2 Sec. 11. The department may adopt and promulgate rules
3 and regulations to carry out the Electronics Recycling Act.

4 Sec. 12. Section 81-15,160, Revised Statutes Supplement,
5 2007, is amended to read:

6 81-15,160 (1) The Waste Reduction and Recycling Incentive
7 Fund is created. The department shall deduct from the fund amounts
8 sufficient to reimburse itself for its costs of administration
9 of the fund. The fund shall be administered by the Department
10 of Environmental Quality. The fund shall consist of proceeds from
11 the fees imposed pursuant to the Waste Reduction and Recycling
12 Incentive Act.

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

15 (a) Technical and financial assistance to political
16 subdivisions for creation of recycling systems and for modification
17 of present recycling systems;

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

20 (c) Market development for recyclable materials separated
21 by generators, including public education, planning, and technical
22 assistance;

23 (d) Capital assistance for establishing private and
24 public intermediate processing facilities for recyclable materials
25 and facilities using recyclable materials in new products;

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

3 (f) Technical assistance for waste reduction and waste
4 exchange for waste generators;

5 (g) Programs to assist communities and counties to
6 develop and implement household hazardous waste management
7 programs; and

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

13 The State Treasurer shall transfer two million one
14 hundred thousand dollars from the Waste Reduction and Recycling
15 Incentive Fund to the General Fund within five days after August
16 16, 2002.

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

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

25 (b) Reimbursement for the purchase of tire-derived

1 product which utilizes a minimum of twenty-five percent recycled
2 tire content, with disbursements not to exceed twenty-five percent
3 of the product's retail cost, except that persons who applied for
4 a grant between June 1, 1999, and May 31, 2001, for the purchase
5 of tire-derived product which utilizes a minimum of twenty-five
6 percent recycled tire content may apply for reimbursement on or
7 before July 1, 2002. Reimbursement shall not exceed twenty-five
8 percent of the product's retail cost and may be funded in fiscal
9 years 2001-02 and 2002-03;

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

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

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

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

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

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

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

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

14 (5) Grants awarded from fees collected under subsection
15 (6) of section 13-2042 may be renewed for up to a five-year
16 grant period. Such applications shall include an updated integrated
17 solid waste management plan pursuant to section 13-2032. Annual
18 disbursements are subject to available funds and the grantee
19 meeting established grant conditions. Priority for such grants
20 shall be given to grant proposals showing regional participation
21 and programs which address the first integrated solid waste
22 management hierarchy as stated in section 13-2018 which shall
23 include toxicity reduction. Disbursements for any one year shall
24 not exceed fifty percent of the total fees collected after rebates
25 under subsection (6) of section 13-2042 during that year.

1 (6) Grants awarded from fees collected under the
2 Electronics Recycling Act shall be made available pursuant to
3 rules and regulations adopted and promulgated under the act for
4 infrastructure development and the collection, transportation, and
5 recycling of electronic devices.

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

11 ~~(7)~~ (8) The Department of Environmental Quality may
12 receive gifts, bequests, and any other contributions for deposit
13 in the Waste Reduction and Recycling Incentive Fund. Any money in
14 the fund available for investment shall be invested by the state
15 investment officer pursuant to the Nebraska Capital Expansion Act
16 and the Nebraska State Funds Investment Act.

17 Sec. 13. If any section in this act or any part of any
18 section is declared invalid or unconstitutional, the declaration
19 shall not affect the validity or constitutionality of the remaining
20 portions.

21 Sec. 14. Original section 81-15,160, Revised Statutes
22 Supplement, 2007, is repealed.