

FIRST REGULAR SESSION

# HOUSE BILL NO. 914

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HOBBS.

Read 1<sup>st</sup> time March 31, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2204L.011

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### AN ACT

To amend chapter 260, RSMo, by adding thereto three new sections relating to electronic devices, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 260, RSMo, is amended by adding thereto three new sections, to be  
2 known as sections 260.970, 260.973, and 260.976, to read as follows:

**260.970. As used in sections 260.970 to 260.976, the following words and terms  
2 mean:**

3 (1) "Credit instrument", any type of borrowing obligation issued under section  
4 **260.976, including any bonds, commercial line of credit note, tax anticipation note, or  
5 similar instrument;**

6 (2) "Department", the Missouri department of revenue;

7 (3) "Electronic device", a cathode ray tube, cathode ray tube device, flat panel  
8 screen, or any other similar video display device with a screen size that is greater than four  
9 inches in size measured diagonally, videocassette players, videocassette recorder decks,  
10 camcorders, laserdisc players, rack audio systems, compact audio systems, compact disc  
11 players, portable compact disc players, portable headset audio, home radios, telephones,  
12 telephone answering machines, fax machines, personal word processors, personal  
13 computers, computer printers, computer monitors, and modems, including fax modems,  
14 but such term shall not include any motor vehicle or large piece of commercial or  
15 industrial equipment, including but not limited to commercial medical equipment, which  
16 contains a cathode ray tube, cathode ray tube device, flat panel screen, or other similar

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 video display device that is contained within and is not separate from the large piece of  
18 commercial or industrial equipment;

19 (4) "Seller", as defined in section 144.010, RSMo.

260.973. 1. A person commits the crime of improper disposal of an electronic  
2 device if he knowingly places an electronic device in a solid waste disposal area or  
3 otherwise disposes of an electronic device in a nonpermit location.

4 2. Each improper disposal of an electronic device shall constitute a separate  
5 violation.

6 3. Improper disposal of an electronic device is a class C misdemeanor.

260.976. 1. Electronic devices shall be delivered to a recycling or resource recovery  
2 facility permitted by this or another state or to the agent of an electronic device wholesaler  
3 or manufacturer for delivery to a permitted solid waste disposal area. Any person  
4 purchasing a new electronic device may present to the seller of such device the used  
5 electronic device or parts of such device which the new electronic device is intended to  
6 replace.

7 2. A fee for each new electronic device sold at retail in this state shall be imposed  
8 on the seller. The fee shall be charged by the seller to the purchaser of a new electronic  
9 device for use and not for resale to an ultimate purchaser subject to the fee.

10 3. The fee imposed under subsection 2 of this section shall be imposed at the rate  
11 of eight dollars for each new personal computer sold. A fee of five dollars shall be required  
12 for each cellular phone and for each new electronic device which is not a personal  
13 computer. Such fee shall be added to the total cost to the purchaser at retail after all  
14 applicable sales taxes on the new electronic device have been computed. The fee imposed,  
15 less six percent of fees collected to be retained by the seller, shall be paid to the department  
16 in the form and manner required by the department, including the total number of new  
17 personal computers and new electronic devices which are not personal computers sold  
18 during the preceding month. The department shall promulgate rules and regulations  
19 necessary to administer fee collection and enforcement. Any rule or portion of a rule, as  
20 that term is defined in section 536.010, RSMo, that is created under the authority delegated  
21 in this section shall become effective only if it complies with and is subject to all of the  
22 provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section  
23 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general  
24 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to  
25 disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
26 rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be  
27 invalid and void.

28           **4. The department shall administer, collect, and enforce the fee authorized under**  
29 **this section and pursuant to the same procedures used in the administration, collection,**  
30 **and enforcement of the general sales tax and use tax imposed under chapter 144, RSMo,**  
31 **except as provided in sections 260.970 to 260.976. The proceeds of the new electronic**  
32 **device fees, less four percent of such fees collected to be retained by the department as**  
33 **collection costs, shall be transferred by the department into an appropriate subaccount of**  
34 **the solid waste management fund created under section 260.330.**

35           **5. There is hereby created for the purposes of implementing the provisions of this**  
36 **section a body corporate and politic to be known as the "Board of Environmental**  
37 **Quality". The powers of the board shall be vested in five board members who shall be the**  
38 **governor, lieutenant governor, attorney general, director of the department of natural**  
39 **resources, and the commissioner of administration or his or her designee. The board shall**  
40 **have all powers necessary to effectuate its purposes including, without limitation, the**  
41 **power to provide a seal, keep records of its proceedings, and provide for professional**  
42 **services. The governor shall serve as chair, the lieutenant governor shall serve as vice**  
43 **chair, and the commissioner of administration shall serve as secretary. Staff support for**  
44 **the board shall be provided by the commissioner of administration.**

45           **(1) Notwithstanding the provisions of any other law to the contrary:**

46           **(a) No officer or employee of this state shall be deemed to have forfeited or shall**  
47 **forfeit his or her office or employment by reason of his or her acceptance of an**  
48 **appointment as a board member or for his or her service to the board;**

49           **(b) Board members shall receive no compensation for the performance of their**  
50 **duties under this subsection, but each commissioner shall be reimbursed from the funds**  
51 **of the commission for his or her actual and necessary expenses incurred in carrying out his**  
52 **or her official duties under this section.**

53           **(2) In the event that any of the board members or officers of the board whose**  
54 **signatures or facsimile signatures appear on any credit instrument shall cease to be board**  
55 **members or officers before the delivery of such credit instrument, their signatures or**  
56 **facsimile signatures shall be valid and sufficient for all purposes as if such board members**  
57 **or officers had remained in office until delivery of such credit instrument.**

58           **(3) Neither the board members executing the credit instruments of the board nor**  
59 **any other board members shall be subject to any personal liability or accountability by**  
60 **reason of the issuance of the credit instruments.**

61           **(4) The board is authorized, by offering for public negotiated sale, to issue, sell, and**  
62 **deliver credit instruments, bearing interest at a fixed or variable rate as shall be**  
63 **determined by the board, which shall mature no later than ten years after issuance, in the**

64 name of the board in an amount determined by the board not to exceed a total of four  
65 hundred fifty million dollars, less the principal amount of any financing agreement entered  
66 into under subdivision (15) of this subsection, for the purposes set forth in this section.  
67 Such credit instrument may only be issued upon the approval of a resolution authorizing  
68 such issuance by a simple majority of the members of the board, with no other proceedings  
69 required.

70 (5) The board shall provide for the payment of the principal of the credit  
71 instruments, any redemption premiums, the interest on the credit instruments, and the  
72 costs attributable to the credit instruments being issued or outstanding as provided in this  
73 section. Unless the board directs otherwise, the credit instrument shall be repaid in the  
74 same time frame and in the same amounts as would be required for loans issued pursuant  
75 to 42 U.S.C. Section 1321; however, in no case shall credit instruments be outstanding for  
76 more than ten years.

77 (6) The board may irrevocably pledge money legally available to it, provided that  
78 the general assembly has first appropriated moneys for the payment of credit instruments.

79 (7) Credit instruments issued under this section shall not constitute debts of this  
80 state or of the board or any agency, political corporation, or political subdivision of this  
81 state and are not a pledge of the faith and credit of this state, the board or of any of those  
82 governmental entities and shall not constitute an indebtedness within the meaning of any  
83 constitutional or statutory limitation upon the incurring of indebtedness. The credit  
84 instruments are payable only from revenue provided for under this chapter. The credit  
85 instruments shall contain a statement to the effect that:

86 (a) Neither the state nor the board nor any agency, political corporation, or  
87 political subdivision of the state shall be obligated to pay the principal or interest on the  
88 credit instruments except as provided by this section; and

89 (b) Neither the full faith and credit nor the taxing power of the state nor the board  
90 nor any agency, political corporation, or political subdivision of the state is pledged to the  
91 payment of the principal, premium, if any, or interest on the credit instruments.

92 (8) The board pledges and agrees with the owners of any credit instruments issued  
93 under this section that the state will not limit or alter the rights vested in the board to fulfill  
94 the terms of any agreements made with the owners or in any way impair the rights and  
95 remedies of the owners until the credit instruments are fully discharged.

96 (9) The board may prescribe the form, details, and incidents of the credit  
97 instruments and make such covenants that in its judgment are advisable or necessary to  
98 properly secure the payment thereof. If such credit instruments shall be authenticated by  
99 the bank or trust company acting as registrar for such by the manual signature of a duly

100 authorized officer or employee thereof, the duly authorized officers of the board executing  
101 and attesting such credit instruments may all do so by facsimile signature provided such  
102 signatures have been duly filed as provided in the uniform facsimile signature of public  
103 officials law, sections 105.273 to 105.278, RSMo, when duly authorized by resolution of the  
104 board, and the provisions of section 108.175, RSMo, shall not apply to such credit  
105 instruments. The board may provide for the flow of funds and the establishment and  
106 maintenance of separate accounts within the special employment security fund, including  
107 the interest and sinking account, the reserve account, and other necessary accounts, and  
108 may make additional covenants with respect to the credit instruments in the documents  
109 authorizing the issuance of credit instruments including refunding credit instruments. The  
110 resolutions authorizing the issuance of credit instruments may also prohibit the further  
111 issuance of credit instruments or other obligations payable from appropriated moneys or  
112 may reserve the right to issue additional credit instruments to be payable from  
113 appropriated moneys on a parity with or subordinate to the lien and pledge in support of  
114 the credit instruments being issued and may contain other provisions and covenants as  
115 determined by the board, provided that any terms, provisions or covenants provided in any  
116 resolution of the board shall not be inconsistent with the provisions of this section.

117 (10) The board may issue credit instruments to refund all or any part of the  
118 outstanding credit instruments issued under this section including matured but unpaid  
119 interest. As with other credit instruments issued under this section, such refunding credit  
120 instruments may bear interest at a fixed or variable rate as determined by the board.

121 (11) The credit instruments issued by the board, any transaction relating to the  
122 credit instruments, and profits made from the sale of the credit instruments are free from  
123 taxation by the state or by any municipality, court, special district, or other political  
124 subdivision of the state.

125 (12) As determined necessary by the board the proceeds of the credit instruments  
126 less the cost of issuance shall be placed in the department of natural resources  
127 environmental quality fund to be administered by the department of natural resources and  
128 may be used for grants and loans to assist municipalities and other political subdivisions  
129 with the costs associated with the construction of waste water disinfection systems and with  
130 the infrastructure to address sewer overflow. The fund may also be used for grants and  
131 loans to establish a program to assist farmer or agricultural businesses in addressing  
132 bacterial pollution resulting from livestock or other agriculturally related pollution of the  
133 water table.

134 (13) The board may enter into any contract or agreement deemed necessary or  
135 desirable to effectuate cost-effective financing hereunder. Such agreements may include

136 credit enhancement, credit support, or interest rate agreements including, but not limited  
137 to, arrangements such as municipal bond insurance; surety bonds; tax anticipation notes;  
138 liquidity facilities; forward agreements; tender agreements;  
139 remarketing agreements; option agreements; interest rate swap, exchange, cap, lock or  
140 floor agreements; letters of credit; and purchase agreements. Any fees or costs associated  
141 with such agreements shall be deemed administrative expenses. The board, with  
142 consideration of all other costs being equal, shall give preference to  
143 Missouri-headquartered financial institutions, or those out-of-state-based financial  
144 institutions with at least one hundred Missouri employees.

145 (14) To the extent this section conflicts with other laws the provisions of this section  
146 prevail. This section shall not be subject to the provisions of sections 23.250 to 23.298,  
147 RSMo.

148 (15) (a) As used in this subdivision the term "lender" means any state or national  
149 bank.

150 (b) The board is authorized to enter financial agreements with any lender for the  
151 purposes set forth in this section, or to refinance other financial agreements in whole or in  
152 part, upon the approval of the simple majority of the members of the board of a resolution  
153 authorizing such financial agreements, with no other proceedings required. The total  
154 amount of the outstanding obligation under all such agreements shall not exceed the  
155 difference of four hundred fifty million dollars and the principal amount of credit  
156 instruments issued under this subsection. In no instance shall the outstanding obligation  
157 under any financial agreement continue for more than ten years. Repayment of obligations  
158 to lenders shall be made from the fees imposed on new electronic devices subject to  
159 appropriation by the general assembly.

160 (c) Financial agreements entered into under this subdivision shall not constitute  
161 debts of this state or of the board or any agency, political corporation, or political  
162 subdivision of this state and are not a pledge of the faith and credit of this state, the board  
163 or of any of those governmental entities and shall not constitute an indebtedness within the  
164 meaning of any constitutional or statutory limitation upon the incurring of indebtedness.  
165 The financial agreements are payable only from revenue provided for under this chapter.  
166 The financial agreements shall contain a statement to the effect that:

167 a. Neither the state nor the board nor any agency, political corporation, or political  
168 subdivision of the state shall be obligated to pay the principal or interest on the financial  
169 agreements except as provided by this section; and

170           **b. Neither the full faith and credit nor the taxing power of the state nor the board**  
171 **nor any agency, political corporation, or political subdivision of the state is pledged to the**  
172 **payment of the principal, premium, if any, or interest on the financial agreements.**

173           **(d) Neither the board members executing the financial agreements nor any other**  
174 **board members shall be subject to any personal liability or accountability by reason of the**  
175 **execution of such financial agreements.**

176           **(e) The board may prescribe the form, details and incidents of the financing**  
177 **agreements and make such covenants that in its judgment are advisable or necessary to**  
178 **properly secure the payment thereof provided that any terms, provisions or covenants**  
179 **provided in any such financing agreement shall not be inconsistent with the provisions of**  
180 **this section. If such financing agreements shall be authenticated by the bank or trust**  
181 **company acting as registrar for such by the manual signature of a duly authorized officer**  
182 **or employee thereof, the duly authorized officers of the board executing and attesting such**  
183 **financing agreements may all do so by facsimile signature provided such signatures have**  
184 **been duly filed as provided in the uniform facsimile signature of public officials law,**  
185 **sections 105.273 to 105.278, RSMo, when duly authorized by resolution of the board and**  
186 **the provisions of section 108.175, RSMo, shall not apply to such financing agreements.**

187           **(16) The commission may issue credit instruments to refund all or any part of the**  
188 **outstanding borrowing issued under this section including matured but unpaid interest.**

189           **(17) The credit instruments issued by the commission, any transaction relating to**  
190 **the credit instruments, and profits made from the issuance of credit are free from taxation**  
191 **by the state or by any municipality, court, special district, or other political subdivision of**  
192 **the state.**