

SECOND REGULAR SESSION

HOUSE BILL NO. 1499

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOPER (120).

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D. ADAM CRUMBLISS, Chief Clerk

4083L.01I

AN ACT

To amend chapter 260, RSMo, by adding thereto fourteen new sections relating to recycling of computer equipment.

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

Section A. Chapter 260, RSMo, is amended by adding thereto fourteen new sections, to
2 be known as sections 260.1050, 260.1053, 260.1059, 260.1062, 260.1065, 260.1068, 260.1071,
3 260.1074, 260.1077, 260.1080, 260.1083, 260.1089, 260.1092, and 260.1101, to read as follows:

**260.1050. Sections 260.1050 to 260.1101 may be cited as the "Manufacturer
2 Responsibility and Consumer Convenience Computer Equipment Collection and Recovery
3 Act".**

260.1053. As used in sections 260.1050 to 260.1101, the following terms mean:

- 2 (1) "Brand", the name, symbol, logo, trademark, or other information that
3 identifies a product rather than the components of the product;
4 (2) "Computer equipment", a desktop or notebook computer and includes a
5 computer monitor or other display device that does not contain a tuner;
6 (3) "Consumer", an individual who uses computer equipment that is purchased
7 primarily for personal or home business use;
8 (4) "Department", department of natural resources;
9 (5) "Manufacturer", a person:
10 (a) Who manufactures or manufactured computer equipment under a brand that:
11 a. The person owns or owned; or

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.

12 **b. The person is or was licensed to use, other than under a license to manufacture**
13 **computer equipment for delivery exclusively to or at the order of the licensor;**

14 **(b) Who sells or sold computer equipment manufactured by others under a brand**
15 **that:**

16 **a. The person owns or owned; or**

17 **b. The person is or was licensed to use, other than under a license to manufacture**
18 **computer equipment for delivery exclusively to or at the order of the licensor;**

19 **(c) Who manufactures or manufactured computer equipment without affixing a**
20 **brand;**

21 **(d) Who manufactures or manufactured computer equipment to which the person**
22 **affixes or affixed a brand that:**

23 **a. The person does not or has not owned; or**

24 **b. The person is not or was not licensed to use; or**

25 **(e) Who imports or imported computer equipment manufactured outside the**
26 **United States into the United States unless at the time of importation the company or**
27 **licensee that sells or sold the computer equipment to the importer has or had assets or a**
28 **presence in the United States sufficient to be considered the manufacturer;**

29 **(6) "Television", any telecommunication system device that can receive moving**
30 **pictures and sound broadcast over a distance and includes a television tuner or a display**
31 **device peripheral to a computer in which the display device contains a television tuner.**

260.1059. 1. The collection, recycling, and reuse provisions of sections 260.1050 to
2 **260.1101 apply to computer equipment used and returned to the manufacturer by a**
3 **consumer in this state and do not impose any obligation on an owner or operator of a solid**
4 **waste facility.**

5 **2. Sections 260.1050 to 260.1101 do not apply to:**

6 **(1) A television, any part of a motor vehicle, a personal digital assistant, or a**
7 **telephone;**

8 **(2) A consumer's lease of computer equipment or a consumer's use of computer**
9 **equipment under a lease agreement; or**

10 **(3) The sale or lease of computer equipment to an entity when the manufacturer**
11 **and the entity enter into a contract that effectively addresses the collection, recycling, and**
12 **reuse of computer equipment that has reached the end of its useful life.**

260.1062. 1. Before a manufacturer may offer computer equipment for sale in this
2 **state, the manufacturer shall:**

3 **(1) Adopt and implement a recovery plan;**

4 **(2) Submit a written copy of the recovery plan to the department; and**

5 **(3) Affix a permanent, readily visible label to the computer equipment with the**
6 **manufacturer's brand.**

7 **2. The recovery plan shall enable a consumer to recycle computer equipment**
8 **without paying a separate fee at the time of recycling and shall include provisions for:**

9 **(1) The manufacturer's collection from a consumer of any computer equipment**
10 **that has reached the end of its useful life and is labeled with the manufacturer's brand; and**

11 **(2) Recycling or reuse of computer equipment collected under subdivision (1) of this**
12 **subsection.**

13 **3. The collection of computer equipment provided under the recovery plan shall**
14 **be:**

15 **(1) Reasonably convenient and available to consumers in this state; and**

16 **(2) Designed to meet the collection needs of consumers in this state.**

17 **4. Examples of collection methods that alone or combined meet the convenience**
18 **requirements of this section include a system:**

19 **(1) By which the manufacturer or the manufacturer's designee offers the consumer**
20 **an option for returning computer equipment by mail at no charge to the consumer;**

21 **(2) Using a physical collection site that the manufacturer or the manufacturer's**
22 **designee keeps open and staffed and to which the consumer may return computer**
23 **equipment; and**

24 **(3) Using a collection event held by the manufacturer or the manufacturer's**
25 **designee at which the consumer may return computer equipment.**

26 **5. Collection services under this section may use existing collection and**
27 **consolidation infrastructure for handling computer equipment and may include systems**
28 **jointly managed by a group of manufacturers, electronic recyclers and repair shops,**
29 **recyclers of other commodities, reuse organizations, not-for-profit corporations, retailers,**
30 **recyclers, and other suitable operations. If a manufacturer or its designee offers a mail-**
31 **back system as described in subsection 4 of this section, either individually or by working**
32 **together with a group of manufacturers or by working with others, it shall be deemed to**
33 **meet the convenience requirements of this section.**

34 **6. The recovery plan shall include information for the consumer on how and where**
35 **to return the manufacturer's computer equipment. The manufacturer:**

36 **(1) Shall include collection, recycling, and reuse information on the manufacturer's**
37 **publicly available Internet site;**

38 **(2) Shall provide collection, recycling, and reuse information to the department;**
39 **and**

40 **(3) May include collection, recycling, and reuse information in the packaging for**
41 **or in other materials that accompany the manufacturer's computer equipment when the**
42 **equipment is sold.**

43 **7. Information about collection, recycling, and reuse on a manufacturer's publicly**
44 **available Internet site does not constitute a determination by the department that the**
45 **manufacturer's recovery plan or actual practices are in compliance with sections 260.1050**
46 **to 260.1101 or other state or federal law.**

47 **8. Each manufacturer shall submit a report to the department not later than**
48 **January thirty-first of each year that includes:**

49 **(1) The weight of computer equipment collected, recycled, and reused during the**
50 **preceding calendar year; and**

51 **(2) Documentation certifying that the collection, recycling, and reuse of computer**
52 **equipment during the preceding calendar year was conducted in a manner that complies**
53 **with section 260.1089 regarding sound environmental management.**

54 **9. If more than one person is a manufacturer of a certain brand of computer**
55 **equipment as defined by section 260.1053, any of those persons may assume responsibility**
56 **for and satisfy the obligations of a manufacturer under sections 260.1050 to 260.1101 for**
57 **that brand. If none of those persons assumes responsibility or satisfies the obligations of**
58 **a manufacturer for the computer equipment of that brand, the department may consider**
59 **any of those persons to be the responsible manufacturer for purposes of sections 260.1050**
60 **to 260.1101.**

61 **10. The obligations under sections 260.1050 to 260.1101 of a manufacturer who**
62 **manufactures or manufactured computer equipment, or sells or sold computer equipment**
63 **manufactured by others, under a brand that was previously used by a different person in**
64 **the manufacture of the computer equipment extends to all computer equipment bearing**
65 **that brand regardless of its date of manufacture.**

260.1065. 1. A person who is a retailer of computer equipment shall not sell or
2 **offer to sell new computer equipment in this state unless the equipment is labeled with the**
3 **manufacturer's label and the manufacturer is included on the department's list of**
4 **manufacturers that have recovery plans.**

5 **2. Retailers can go to the department's Internet site as outlined in section 260.1071**
6 **and view all manufacturers that are listed as having registered a collection program.**
7 **Covered electronic products from manufacturers on that list may be sold in or into this**
8 **state.**

9 **3. A retailer is not required to collect computer equipment for recycling or reuse**
10 **under sections 260.1050 to 260.1101.**

260.1068. 1. A manufacturer or retailer of computer equipment is not liable in any way for information in any form that a consumer leaves on computer equipment that is collected, recycled, or reused under sections 260.1050 to 260.1101.

2. The consumer is responsible for any information in any form left on the consumer's computer equipment that is collected, recycled, or reused.

3. Compliance with sections 260.1050 to 260.1101 does not exempt a person from liability under other law.

260.1071. 1. The department shall educate consumers regarding the collection, recycling, and reuse of computer equipment.

2. The department shall host or designate another person to host an Internet site providing consumers with information about the recycling and reuse of computer equipment, including best management practices and information about and links to information on:

(1) Manufacturers' collection, recycling, and reuse programs, including manufacturers' recovery plans; and

(2) Computer equipment collection events, collection sites, and community computer equipment recycling and reuse programs.

260.1074. 1. The department may conduct audits and inspections to determine compliance with sections 260.1050 to 260.1101.

2. The department and the attorney general, as appropriate, shall enforce sections 260.1050 to 260.1101 and, except as provided by subsections 4 and 5 of this section, take enforcement action against any manufacturer, retailer, or person who recycles or reuses computer equipment for failure to comply with sections 260.1050 to 260.1101.

3. The attorney general may file suit to enjoin an activity related to the sale of computer equipment in violation of sections 260.1050 to 260.1101.

4. The department shall issue a written warning notice to a person upon the person's first violation of sections 260.1050 to 260.1101. The person shall comply with sections 260.1050 to 260.1101 not later than the sixtieth day after the date the warning notice is issued.

5. A retailer who receives a warning notice from the department that the retailer's inventory violates sections 260.1050 to 260.1101 because it includes computer equipment from a manufacturer that has not submitted the recovery plan required by section 260.1062 shall bring the inventory into compliance with sections 260.1050 to 260.1101 not later than the sixtieth day after the date the warning notice is issued.

6. (1) The department may assess a penalty against a manufacturer that does not label its computer equipment or adopt, implement, or submit a recovery plan as required

20 by section 260.1062. No penalty shall be assessed for a first violation and the amount of the
21 penalty shall not exceed ten thousand dollars for the second violation or twenty-five
22 thousand dollars for each subsequent violation.

23 (2) Any penalty collected under this section shall be credited to the "Computer
24 Recycling Subaccount", which is hereby created, in the hazardous waste fund. Moneys in
25 the subaccount shall be used for the purpose of administering the provisions of sections
26 260.1050 to 260.1101. The state treasurer shall be custodian of the subaccount and may
27 approve disbursements from the fund in accordance with sections 30.170 and 30.180,
28 RSMo. Upon appropriation, money in the subaccount shall be used solely for the
29 administration of sections 260.1050 to 260.1101. Any moneys remaining in the subaccount
30 at the end of the biennium shall revert to the credit of the general revenue fund. The state
31 treasurer shall invest moneys in the fund in the same manner as other funds are invested.
32 Any interest and moneys earned on such investments shall be credited to the subaccount.

260.1077. Financial or proprietary information submitted to the department under
2 sections 260.1050 to 260.1101 shall not be considered a public record under chapter 610,
3 RSMo.

260.1080. The department shall compile information from manufacturers and issue
2 an electronic report to the committee in each house of the general assembly having primary
3 jurisdiction over environmental matters not later than March first of each year.

260.1083. Sections 260.1050 to 260.1101 do not authorize the department to impose
2 a fee, including a recycling fee or registration fee, on a consumer, manufacturer, retailer,
3 or person who recycles or reuses computer equipment.

260.1089. 1. All computer equipment collected under sections 260.1050 to 260.1101
2 shall be recycled or reused in a manner that complies with federal, state, and local law.

3 2. The department shall, by rule, adopt as mandatory standards for recycling or
4 reuse of computer equipment in this state the standards provided by "Electronics
5 Recycling Operating Practices" as approved by the board of directors of the Institute of
6 Scrap Recycling Industries, Inc., April 25, 2006, or other standards issued from the U.S.
7 Environmental Protection Agency, if available.

260.1092. 1. If federal law establishes a national program for the collection and
2 recycling of computer equipment and the department determines that the federal law
3 substantially meets the purposes of sections 260.1050 to 260.1101, the department may
4 adopt an agency statement that interprets the federal law as preemptive of sections
5 260.1050 to 260.1101.

6 2. Sections 260.1050 to 260.1101 shall expire on the date the department issues a
7 statement under this section.

260.1101. 1. The department shall adopt any rules required to implement sections
2 260.1050 to 260.1101 not later than July 1, 2009. Any rule or portion of a rule, as that term
3 is defined in section 536.010, RSMo, that is created under the authority delegated in this
4 section shall become effective only if it complies with and is subject to all of the provisions
5 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
6 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
7 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and
8 annul a rule are subsequently held unconstitutional, then the grant of rulemaking
9 authority and any rule proposed or adopted after August 28, 2008, shall be invalid and
10 void.

11 2. Sections 260.1050 to 260.1101 shall not be enforced before rules developed under
12 this section are promulgated.

13 3. It shall not be considered a violation of sections 260.1050 to 260.1101 for a
14 retailer to sell any inventory accrued before the effective date of sections 260.1050 to
15 260.1101.

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