

Amendment No. 222

Senate Amendment to Senate Bill No. 183 (BDR 40-556)

Proposed by: Senate Committee on Natural Resources

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 183 (§§ 17, 23).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

MSN/TMC



Date: 4/11/2013

S.B. No. 183—Enacts provisions governing manufacturers of certain electronic devices. (BDR 40-556)



SENATE BILL NO. 183—SENATORS JONES, SPEARMAN, SEGERBLOM, DENIS,
PARKS; ATKINSON, FORD, KIHUEN, MANENDO AND WOODHOUSE

FEBRUARY 25, 2013

JOINT SPONSORS: ASSEMBLYMEN BOBZIEN; AND PIERCE

Referred to Committee on Natural Resources

SUMMARY—Enacts provisions governing manufacturers of certain electronic devices. (BDR 40-556)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to recycling; prohibiting a manufacturer from selling or offering for sale in this State certain new electronic devices under certain circumstances; authorizing a manufacturer to carry out a program to collect, transport and recycle certain electronic devices of the manufacturer; requiring each manufacturer of such an electronic device to register annually with the Division of Environmental Protection of the State Department of Conservation and Natural Resources; requiring a manufacturer that carries out a program to recycle such electronic devices to report certain information about the program to the Division; establishing annual registration fees; creating the Account for Recycling Covered Electronic Devices; authorizing the Division to award certain grants from the Account; requiring the Division to maintain on the Internet a directory containing certain information relating to manufacturers of such electronic devices; prohibiting a retailer from selling or offering for sale in this State such an electronic device under certain circumstances; prescribing administrative fines for certain violations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill generally provides for the recycling of covered electronic devices sold in this State pursuant to a program carried out by a manufacturer to collect, transport and recycle the covered electronic devices of the manufacturer.

Section 7 of this bill defines a "covered electronic device" as a computer, computer peripheral, facsimile machine, digital video playback device or certain video display devices with a screen that is larger than 4 inches measured diagonally. **Section 13** of this bill prohibits a manufacturer from selling or offering for sale in this State a new covered electronic device unless the manufacturer complies with certain requirements. **Section 14** of this bill authorizes a manufacturer to carry out a voluntary program to collect, transport and

recycle the covered electronic devices of the manufacturer. **Section 15** of this bill requires a manufacturer to register annually with the Division of Environmental Protection of the State Department of Conservation and Natural Resources and prescribes the contents of a registration form. **Section 16** of this bill requires a manufacturer that carries out a voluntary recycling program pursuant to **section 14** to include with its annual registration form certain information relating to the recycling program. **Sections 17 and 23** of this bill prescribe the fee which a manufacturer must submit with its annual registration form. The annual registration fee is based on the manufacturer's sales of covered electronic devices in this State during the preceding calendar year and whether the manufacturer is carrying out a voluntary recycling program pursuant to **section 14**. **Section 18** of this bill creates the Account for Recycling Covered Electronic Devices and authorizes the Division to award grants from the Account to assist a city or county in carrying out a recycling program. **Section 19** of this bill requires the Division to publish and maintain on the Internet a directory of each brand and manufacturer registered with the Division and certain other information. **Section 20** of this bill prohibits a retailer from selling or offering for sale in this State a new covered electronic device under certain circumstances. ~~(Section)~~ **Sections 22 and 23.5** of this bill ~~(establishes)~~ **establish** administrative fines for certain violations. **Section 24** of this bill requires the Division to conduct and report to the Legislature the findings of a workshop to assess the impact of the annual registration fees collected pursuant to **section 17**.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 444A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 22, inclusive, of this act.

Sec. 2. *As used in sections 2 to 22, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 12, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Account" means the Account for Recycling Covered Electronic Devices created by section 18 of this act.*

Sec. 4. *"Brand" means any name, symbol, word or mark that identifies a covered electronic device, other than any of its components, and attributes the covered electronic device to the owner of the brand as the manufacturer.*

Sec. 5. ~~++~~ *"Computer" means a desktop computer or laptop computer, including, without limitation, the monitor of the computer.*

~~— 2. The term does not include:~~

~~— (a) A personal digital assistant; or~~

~~— (b) A computer peripheral.~~

Sec. 6. *"Computer peripheral" means a keyboard, mouse, printer or other device which is intended for external use with a computer and which provides input into or output from a computer.*

Sec. 7. *"Covered electronic device" means a computer, computer peripheral, facsimile machine, digital video playback device or video display device with a screen that is larger than 4 inches measured diagonally. The term does not include a video display device which is part of a motor vehicle or which is contained within a household appliance or any commercial, industrial or medical equipment.*

Sec. 8. *"Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.*

Sec. 9. 1. *"Manufacturer" means a person who is the owner of a brand of covered electronic devices which are sold or offered for sale in this State by any means, including, without limitation, devices which are sold or offered for sale*

30 *remotely through a sales outlet, catalog or Internet website. The term includes,*
31 *without limitation, the owner of a brand of covered electronic devices who:*

32 *(a) Maintains, occupies or uses, permanently or temporarily, directly or*
33 *indirectly, or through a subsidiary or agent, an office, place of distribution, sales*
34 *or sample room or place, warehouse or storage place or other place of business in*
35 *this State; or*

36 *(b) Enters into any agreement under which a person, for a commission or*
37 *other consideration, directly or indirectly refers a potential purchaser of a*
38 *covered electronic device in this State to the owner of a brand of covered*
39 *electronic devices, whether through a sales outlet, catalog, Internet website or*
40 *otherwise.*

41 *2. The term does not include a person who holds a nonrestricted gaming*
42 *license issued pursuant to chapter 463 of NRS.*

43 *Sec. 10. "Manufacturer recycling program" means a statewide program to*
44 *collect, transport and recycle covered electronic devices that is carried out by one*
45 *or more manufacturers pursuant to section 14 of this act.*

46 *Sec. 11. "Recycling" means any process in which materials that would*
47 *otherwise become solid waste are collected, separated or processed and returned*
48 *to the marketplace in the form of raw materials or products.*

49 *Sec. 12. 1. "Video display device" means an electronic device with an*
50 *output surface that displays or is capable of displaying, through the use of a*
51 *cathode-ray tube, a liquid crystal display, gas plasma, digital light processing or*
52 *any other image-projection technology, moving graphical images or visual*
53 *representations of image sequences or pictures that show a number of quickly*
54 *changing images on a screen to create the illusion of motion.*

55 *2. The term includes a device which is an integral part of the display and*
56 *cannot easily be removed from the display by a consumer and which produces the*
57 *moving image on a screen.*

58 *Sec. 13. 1. Sections 2 to 22, inclusive, of this act apply to any*
59 *manufacturer that sells or offers for sale a new covered electronic device in this*
60 *State.*

61 *2. A manufacturer shall not sell or offer for sale in this State a new covered*
62 *electronic device unless:*

63 *(a) The covered electronic device is clearly labeled with the name or a brand*
64 *of the manufacturer;*

65 *(b) The manufacturer has registered with the Division pursuant to section 15*
66 *of this act; and*

67 *(c) The manufacturer has submitted to the Division any registration fee*
68 *required by section 17 of this act.*

69 *Sec. 14. 1. A manufacturer may, either individually or collectively with*
70 *one or more manufacturers, carry out a manufacturer recycling program to*
71 *collect, transport and recycle the covered electronic devices of the manufacturer.*
72 *A manufacturer may carry out the program by:*

73 *(a) Providing a method of returning to the manufacturer the covered*
74 *electronic devices of the manufacturer at no cost to the person returning a*
75 *covered electronic device, including, without limitation, the option to:*

76 *(1) Return a covered electronic device in a package for which postage is*
77 *prepaid by the manufacturer; or*

78 *(2) Deposit a covered electronic device at a designated collection point in*
79 *this State;*

80 *(b) Contracting with a recycler, local government, another manufacturer or*
81 *any other person to provide for the collection, transportation and recycling of the*
82 *covered electronic devices of the manufacturer; or*

1 (c) Participating in any program approved by the Division which provides for
2 the collection, transportation and recycling of the covered electronic devices of
3 the manufacturer.

4 2. A manufacturer that carries out a manufacturer recycling program shall:

5 (a) Establish and maintain a toll-free telephone number and an Internet
6 website to provide information to consumers about the manufacturer recycling
7 program, including, without limitation, instructions on how to return a covered
8 electronic device to the manufacturer.

9 (b) Include educational and instructional materials relating to the
10 destruction and sanitization of data from a covered electronic device:

11 (1) With each new covered electronic device sold or offered for sale in
12 this State;

13 (2) On the Internet website established pursuant to paragraph (a); or

14 (3) As information provided to consumers at the toll-free telephone
15 number established pursuant to paragraph (a).

16 Sec. 15. 1. On or before March 1 of each year, each manufacturer of a
17 covered electronic device that is sold or offered for sale in this State shall register
18 with the Division on a form provided by the Division.

19 2. A registration form submitted pursuant to subsection 1 must include:

20 (a) A list of each brand under which the manufacturer sells or offers for sale
21 a covered electronic device in this State.

22 (b) The total number of covered electronic devices sold by the manufacturer
23 in this State during the preceding calendar year, including, without limitation,
24 each type of covered electronic device sold and each brand under which a
25 covered electronic device was sold.

26 (c) A statement indicating whether the manufacturer is carrying out a
27 manufacturer recycling program and the date of implementation of the program.

28 (d) If the manufacturer carried out a manufacturer recycling program
29 during the preceding calendar year:

30 (1) The toll-free telephone number and the address of the Internet
31 website established by the manufacturer pursuant to paragraph (a) of subsection
32 2 of section 14 of this act; and

33 (2) The report required by section 16 of this act.

34 (e) Any other information required by the Division for the registration.

35 3. The Division shall review each registration form submitted by a
36 manufacturer pursuant to this section to determine whether the registration form
37 is complete. If the Division determines that a registration form is incomplete, the
38 Division shall cause written notice of the insufficiency to be mailed to the
39 manufacturer that submitted the registration form. The notice must clearly
40 identify each defect in the registration form. The manufacturer shall, not later
41 than 60 days after receiving a notice of insufficiency, submit a revised
42 registration form which cures each defect identified in the notice.

43 4. A manufacturer that carries out a manufacturer recycling program shall
44 notify the Division before implementing any significant change in the operation
45 or scope of the manufacturer recycling program.

46 5. All sales data submitted to the Division by a manufacturer pursuant to
47 this section is proprietary and confidential and must not be disclosed by the
48 Division except as otherwise authorized by law.

49 Sec. 16. A manufacturer shall, for each calendar year in which it carries
50 out a manufacturer recycling program, prepare and submit to the Division with
51 its annual registration form a report which contains the following information:

1 1. The total weight of covered electronic devices received by the
2 manufacturer pursuant to the manufacturer recycling program during the
3 calendar year;

4 2. The total number of covered electronic devices recycled, refurbished or
5 reused pursuant to the manufacturer recycling program during the calendar
6 year; and

7 3. The processes and methods used to recycle, refurbish or reuse covered
8 electronic devices received pursuant to the manufacturer recycling program.

9 Sec. 17. 1. A manufacturer shall submit to the Division with its initial
10 annual registration form a fee of:

11 (a) For a manufacturer that sold at least 100 but not more than 999 covered
12 electronic devices in this State during the preceding calendar year, \$5,000.

13 (b) For a manufacturer that sold 1,000 or more covered electronic devices in
14 this State during the preceding calendar year, \$10,000.

15 2. A manufacturer shall submit with each subsequent annual registration
16 form a fee of:

17 (a) For a manufacturer that sold at least 100 but not more than 999 covered
18 electronic devices in this State during the preceding calendar year:

19 (1) If the manufacturer is carrying out a manufacturer recycling
20 program at the time of registration, \$500.

21 (2) If the manufacturer is not carrying out a manufacturer recycling
22 program at the time of registration, \$5,000.

23 (b) For a manufacturer that sold 1,000 or more covered electronic devices in
24 this State during the preceding calendar year:

25 (1) If the manufacturer is carrying out a manufacturer recycling
26 program at the time of registration, \$500.

27 (2) If the manufacturer is not carrying out a manufacturer recycling
28 program at the time of registration, \$10,000.

29 3. A manufacturer that sold fewer than 100 covered electronic devices in
30 this State during the preceding calendar year is not required to pay a registration
31 fee pursuant to this section.

32 4. All registration fees submitted pursuant to this section must be deposited
33 with the State Treasurer for credit to the Account.

34 Sec. 18. 1. There is hereby created in the State General Fund the
35 Account for Recycling Covered Electronic Devices. The Administrator of the
36 Division shall administer the Account.

37 2. The Account consists only of money:

38 (a) Received by the Division pursuant to sections 17 and 22 of this act;

39 (b) Accepted by the Division as a grant, gift or donation for deposit into the
40 Account; or

41 (c) Directly appropriated to the Account by the Legislature.

42 3. The money in the Account may only be expended by the Division to
43 ~~forward~~ :

44 (a) Award grants of money to a city or county in this State to carry out a
45 program of recycling ~~++~~ ; and

46 (b) Carry out the provisions of sections 2 to 22, inclusive, of this act.

47 4. The money in the Account must be invested as other money of the State is
48 invested, and the interest and income earned on the money in the Account must
49 be credited to the State General Fund. All claims against the Account must be
50 paid as other claims against the State are paid.

51 5. Any balance remaining in the Account at the end of each fiscal year
52 which is in excess of \$2,000,000 and which has not been committed for

1 expenditure on or before June 30 of that fiscal year reverts to the State General
2 Fund.

3 6. The Director of the State Department of Conservation and Natural
4 Resources shall include in the biennial report submitted to the Legislature
5 pursuant to NRS 444A.070 a description of each grant of money awarded
6 pursuant to this section during the previous biennium.

7 7. The Division shall adopt regulations governing the award of a grant
8 pursuant to this section.

9 Sec. 19. The Division shall publish and maintain on the Internet website
10 maintained by the Division a directory listing:

11 1. Each brand and manufacturer registered with the Division pursuant to
12 section 15 of this act.

13 2. The toll-free telephone number and Internet website of each
14 manufacturer that is carrying out a manufacturer recycling program pursuant to
15 section 14 of this act.

16 Sec. 20. 1. A retailer shall not sell or offer for sale in this State a new
17 covered electronic device unless:

18 (a) The manufacturer of the covered electronic device is registered with the
19 Division pursuant to section 15 of this act; and

20 (b) The covered electronic device is clearly labeled with the name or a brand
21 of the manufacturer.

22 2. A retailer may rely on the directory maintained by the Division pursuant
23 to section 19 of this act for the purposes of complying with paragraph (a) of
24 subsection 1.

25 3. As used in this section, "retailer" means any person who sells or offers
26 for sale at retail a new covered electronic device to a consumer in this State.

27 Sec. 21. The Division may adopt regulations to carry out the provisions of
28 sections 2 to 22, inclusive, of this act.

29 Sec. 22. 1. ~~Except as otherwise provided in subsection 2, the~~ The
30 Division may impose an administrative fine of not more than \$10,000 against a
31 person who violates any provision of sections 2 to 22, inclusive, of this act or any
32 regulation adopted pursuant thereto.

33 2. ~~The Division may impose against any retailer that violates the provisions~~
34 ~~of section 20 of this act an administrative fine of not more than \$1,000 for any~~
35 ~~single violation or more than \$10,000 for multiple violations.~~

36 3. ~~The Division may only assess an administrative fine against a retailer~~
37 ~~pursuant to subsection 2 after the Division has issued to the retailer at least three~~
38 ~~written warnings regarding the violation.~~

39 ~~4. Except as otherwise provided in subsection 3, all administrative~~
40 ~~fin~~ fines collected by the Division pursuant to this section must be deposited with the
41 State Treasurer for credit to the State General Fund.

42 ~~5. 3.~~ The Division may delegate to a hearing officer or panel its authority
43 to impose and collect administrative fines pursuant to this section and deposit the
44 money collected with the State Treasurer for credit to the Account.

45 ~~6. 4.~~ For the purposes of this section, each day on which a violation
46 continues constitutes a separate offense.

47 Sec. 23. Section 17 of this act is hereby amended to read as follows:

48 Sec. 17. 1. A manufacturer shall submit to the Division with its
49 initial annual registration form a fee of:

50 (a) For a manufacturer that sold at least 100 but not more than 999
51 covered electronic devices in this State during the preceding calendar year,
52 \$5,000.

(b) For a manufacturer that sold 1,000 or more covered electronic devices in this State during the preceding calendar year, \$10,000.

2. A manufacturer shall submit with each subsequent annual registration form a fee of:

(a) ~~For a manufacturer that sold at least 100 but not more than 999 covered electronic devices in this State during the preceding calendar year:~~

~~(1) If the manufacturer sold at least 100 covered electronic devices in this State during the preceding calendar year and~~ is carrying out a manufacturer recycling program at the time of registration, \$500.

~~(2) (b) If the manufacturer sold at least 100 covered electronic devices in this State during the preceding calendar year and is not~~ carrying out a manufacturer recycling program at the time of registration, \$5,000.

~~(b) For a manufacturer that sold 1,000 or more covered electronic devices in this State during the preceding calendar year:~~

~~(1) If the manufacturer is carrying out a manufacturer recycling program at the time of registration, \$500.~~

~~(2) If the manufacturer is not carrying out a manufacturer recycling program at the time of registration, \$10,000.~~

3. A manufacturer that sold fewer than 100 covered electronic devices in this State during the preceding calendar year is not required to pay a registration fee.

4. All registration fees submitted pursuant to this section must be deposited with the State Treasurer for credit to the Account.

Sec. 23.5. Section 22 of this act is hereby amended to read as follows:

Sec. 22. 1. ~~The~~ Except as otherwise provided in subsection 2, the Division may impose an administrative fine of not more than \$10,000 against a person who violates any provision of sections 2 to 22, inclusive, of this act or any regulation adopted pursuant thereto.

2. The Division may impose against any retailer that violates the provisions of section 20 of this act an administrative fine of not more than \$1,000 for any single violation or more than \$10,000 for multiple violations.

3. The Division may only assess an administrative fine against a retailer pursuant to subsection 2 after the Division has issued to the retailer at least three written warnings regarding the violation.

4. Except as otherwise provided in subsection ~~3~~ 5, all administrative fines collected by the Division pursuant to this section must be deposited with the State Treasurer for credit to the State General Fund.

~~3~~ 5. The Division may delegate to a hearing officer or panel its authority to impose and collect administrative fines pursuant to this section and deposit the money collected with the State Treasurer for credit to the Account.

~~4~~ 6. For the purposes of this section, each day on which a violation continues constitutes a separate offense.

Sec. 24. The Division of Environmental Protection of the State Department of Conservation and Natural Resources shall:

1. On or before October 1, 2016, conduct a workshop consisting of representatives of the various sectors of the electronics industry and representatives from appropriate public and private entities to review and assess the impact of the annual registration fees collected pursuant to section 17 of this act.

2. On or before January 31, 2017, submit the findings and recommendations of the workshop conducted pursuant to subsection 1 to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Sec. 25. 1. This section and sections 1 to ~~22~~ 19, inclusive, 21, 22 and ~~section~~ 24 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2014, for all other purposes.

2. Sections 20 and 23.5 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2015, for all other purposes.

3. Section 23 of this act becomes effective on January 1, 2018.