

House Bill 657

By: Representative Holcomb of the 82nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to waste
2 management, so as to enact the "Georgia Manufacturer Responsibility and Consumer
3 Convenience Information Technology Equipment Collection and Recovery Act"; to provide
4 for findings by the General Assembly; to provide definitions; to require a certain label on a
5 television or computer device sold by a manufacturer; to provide that a computer
6 manufacturer may not sell or offer to sell a covered computer device unless the manufacturer
7 offers a certain recovery program; to describe requirements for such program; to provide that
8 a television manufacturer shall not sell or offer to sell a covered television unless the
9 manufacturer offers a certain recovery program; to describe requirements for such program;
10 to provide that a television or computer manufacturer shall not be liable for damages arising
11 from information stored on a covered device collected from a consumer under the
12 manufacturer's recovery program; to provide that a retailer shall only sell a covered device
13 that meets certain requirements; to provide after a date certain that a consumer may not
14 dispose of a covered device in a certain manner; to provide that an owner or operator of a
15 solid waste landfill shall not knowingly accept covered devices; to require the Department
16 of Natural Resources to provide certain information about the disposal of covered devices;
17 to provide the department may conduct audits and inspections of a television or computer
18 manufacturer, retailer, or recoverer to determine compliance with this Act; to exempt
19 financial and proprietary information submitted to the department pursuant to this Act from
20 open records laws; to require the department include in its annual solid waste report
21 information provided by manufacturers on recovery programs; to provide that covered
22 devices shall be recovered in a manner that complies with all applicable federal, state, and
23 local requirements and certain responsible recycling practices; to provide that the Board of
24 Natural Resources shall promulgate certain rules and regulations; to provide an effective
25 date; to repeal conflicting laws; and for other purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 657

27 **SECTION 1.**

28 Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to waste
 29 management, is amended by adding a new article to read as follows:

30 "ARTICLE 1031 12-8-220.

32 This article shall be known and may be cited as the 'Georgia Manufacturer Responsibility
 33 and Consumer Convenience Information Technology Equipment Collection and Recovery
 34 Act'.

35 12-8-221.36 The General Assembly finds:

37 (1) Televisions, computers, and printers are critical to the development of this state's
 38 economy and the promotion of the quality of life of the citizens of this state;

39 (2) Many of these televisions, computers, and printers can be refurbished and reused or
 40 recycled;

41 (3) Developing and implementing a system for recovering televisions, computers, and
 42 printers promotes resource conservation, public health, public safety, and economic
 43 prosperity; and

44 (4) In order to carry out these purposes, the state must establish a comprehensive and
 45 convenient recovery program for televisions and computer devices based on individual
 46 manufacturer responsibility and shared responsibility among consumers, retailers, and
 47 government. The program must ensure that end-of-life televisions and computer devices
 48 are disposed of in a manner that promotes resource conservation through the development
 49 of an effective and efficient system for collection and recycling and encourage
 50 manufacturers to offer convenient collection and recycling service to consumers at no
 51 charge.

52 12-8-222.53 As used in this chapter:

54 (1) 'Collect' or 'collection' means to facilitate the delivery of a covered device to a
 55 collection site included in the manufacturer's program and to transport the covered device
 56 for recovery.

57 (2) 'Computer manufacturer' means a person who:

58 (A) Manufactures a covered computer device under its own brand for sale or without
 59 affixing a brand;

60 (B) Sells in this state a covered computer device produced by another supplier under
 61 its own brand or label;

62 (C) Imports covered computer devices; if a company from which an importer
63 purchases a covered device has a presence or assets in the United States, that company
64 shall be considered the manufacturer; or

65 (D) Manufactures a covered computer device, supplies a covered device to a person
66 within a distribution network that includes wholesalers or retailers in this state, and
67 benefits from the sale of a covered device through that distribution network.

68 (3) 'Consumer' means an occupant of a single detached dwelling unit or a single unit of
69 a multiple dwelling unit who has used a covered device primarily for personal or home
70 business use.

71 (4) 'Covered computer device' means a desktop or notebook computer, computer
72 monitor, or printing device marketed and intended for use by a consumer, but does not
73 include a covered television.

74 (5) 'Covered devices' means a covered computer device and a covered television
75 marketed and intended for use by a consumer. 'Covered device,' 'covered computer
76 device,' and 'covered television' do not include any of the following:

77 (A) A covered device that is a part of a motor vehicle or any component part of a motor
78 vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including
79 replacement parts for use in a motor vehicle;

80 (B) A covered device that is functionally or physically a part of, or connected to, or
81 integrated within equipment or a system designed and intended for use in an industrial,
82 governmental, commercial, research and development, or medical setting, including,
83 but not limited to, diagnostic, monitoring, control or medical products as defined under
84 the federal Food, Drug, and Cosmetic Act, or equipment used for security, sensing,
85 monitoring, antiterrorism, or emergency services purposes or equipment designed and
86 intended primarily for use by professional users;

87 (C) A covered device that is contained within a clothes washer, clothes dryer,
88 refrigerator, refrigerator and freezer, microwave oven, conventional oven or range,
89 dishwasher, room air conditioner, dehumidifier, air purifier, water heater, or exercise
90 equipment; or

91 (D) Telephones of any type, including mobile telephones, personal digital assistants,
92 global positioning systems, or hand-held gaming devices.

93 (6) 'Covered television' means any electronic device that contains a tuner that locks on
94 to a selected carrier frequency and is capable of receiving and displaying television or
95 video programming via broadcast, cable, or satellite, including, without limitation, any
96 direct view or projection television with a viewable screen of nine inches or larger whose
97 display technology is based on cathode ray tube, plasma, liquid crystal display, digital
98 light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting

99 diode, or similar technology marketed and intended for use by a consumer primarily for
100 personal purposes. The term does not include a covered computer device.

101 (7) 'Manufacturer's brands' means a manufacturer's name, brand name either owned or
102 licensed by the manufacturer, or brand logo for which the manufacturer has legal
103 responsibility.

104 (8) 'Person' means an individual, business entity, partnership, limited liability company,
105 corporation, not for profit corporation, association, government entity, public benefit
106 corporation, or public authority.

107 (9) 'Recover' means to reuse or recycle.

108 (10) 'Recoverer' means a person that reuses or recycles a covered device.

109 (11) 'Retail sale' means the sale of a new product through a sales outlet, the Internet, mail
110 order, or otherwise, whether or not the seller has a physical presence in this state. A retail
111 sale includes the sale of new products.

112 (12) 'Retailer' means a person engaged in retail sales.

113 (13) 'Sale' or 'sell' means any transfer of title for consideration including, but not limited
114 to, transactions conducted through sales outlets, catalogs, or the Internet or any other
115 similar electronic means, but does not mean leases.

116 (14) 'Television manufacturer' means a person who:

117 (A) Manufactures covered televisions under a brand that it licenses or owns for sale in
118 this state;

119 (B) Manufactures covered televisions without affixing a brand for sale in this state;

120 (C) Resells into this state a covered television under a brand it owns or licenses
121 produced by other suppliers, including retail establishments that sell covered televisions
122 under a brand the retailer owns or licenses;

123 (D) Imports covered televisions; if a company from which an importer purchases a
124 covered device has a presence or assets in the United States, that company shall be
125 considered the manufacturer;

126 (E) Manufactures covered televisions, supplies them to any person or persons within
127 a distribution network that includes wholesalers or retailers in this state, and benefits
128 from the sale in this state of those covered televisions through the distribution network;

129 or

130 (F) Assumes the responsibilities and obligations of a television manufacturer under this
131 article. In the event the television manufacturer is one who manufactures, sells, or
132 resells under a brand it licenses, the licensor or brand owner of the brand shall not be
133 included in the definition of television manufacturer under subparagraph (A) or (C) of
134 this paragraph.

135 12-8-223.

136 A computer or television manufacturer may not sell or offer to sell a covered device unless
137 a label indicating the computer or television manufacturer's brand is permanently affixed
138 to the covered device in a readily visible location.

139 12-8-224.

140 (a) A computer manufacturer shall not sell or offer to sell in this state a covered computer
141 device unless the computer manufacturer provides a recovery program at no charge or
142 provides a financial incentive of equal or greater value, such as a coupon. A recovery
143 program shall:

144 (1) Require a computer manufacturer to offer to collect from a consumer a covered
145 computer device bearing a label as provided in Code Section 12-8-223; and

146 (2) Make the collection service as convenient to a consumer as the purchase of a covered
147 computer device from a computer manufacturer as follows:

148 (A) A computer manufacturer may utilize a mail-back system in which a consumer can
149 return an end-of-life covered device by mail, including a system in which a consumer
150 can go online, print a prepaid shipping label, package the product, and affix the prepaid
151 label to the package for deposit with the United States Postal Service or other carrier
152 selected by the computer manufacturer; or

153 (B) If the computer manufacturer does not provide a mail-back system, the computer
154 manufacturer shall provide collection sites or collection events, or both, that are
155 centrally located in a county, region, or other locations based on population. Computer
156 manufacturers shall work in coordination with the department to determine an
157 appropriate number of collection sites or collection events, or both.

158 (b) A recovery program may use existing collection and consolidation infrastructure for
159 collecting covered devices, including retailers, recyclers, and reuse organizations.

160 (c) Computer manufacturers may work collectively and cooperatively to offer collection
161 services to consumers.

162 (d) A recovery program shall be described on a computer manufacturer's Internet website
163 if a manufacturer maintains an Internet website.

164 (e) Collection events under this Code section must accept any covered computer device.

165 12-8-225.

166 (a) No television manufacturer shall sell or offer for sale a covered television in this state
167 unless the television manufacturer provides a recovery program at no charge or provides
168 a financial incentive of equal or greater value, such as a coupon.

169 (b)(1) Beginning January 1, 2013, through June 30, 2014, a television manufacturer
170 annually must recycle or arrange for the recycling of covered televisions.

171 (2) Beginning program year 2014, a television manufacturer annually must recycle or
172 arrange for the recycling of its market share of covered televisions pursuant to this article.
173 As used in this Code section, the term 'market share' means the total weight of the
174 manufacturer's televisions that were sold at retail in the United States to individuals
175 during the previous program year, multiplied by the population fraction of Georgia to the
176 United States population, divided by the total weight of all of the televisions that were
177 sold at retail to individuals in Georgia during the previous program year. The individual
178 recycling obligation for each television manufacturer is the total pounds of televisions
179 recycled by all television manufacturers during the previous program year multiplied by
180 the manufacturer's market share as calculated above. The population fraction is
181 determined by using the most recent United States census data for the total population of
182 Georgia divided by the total population of the United States.

183 (3) The department shall notify each television manufacturer of its market share
184 recycling obligation. A television manufacturer shall provide the department information
185 necessary for the department to calculate market share and to determine each television
186 manufacturer's recycling obligation.

187 (4) A television manufacturer shall report to the department the total weight of the
188 manufacturer's televisions sold at retail in the United States, state specific television sales
189 data annually calculated using the population fraction of Georgia to the United States
190 population, and the total weight of televisions collected and recycled in this state during
191 the previous program year.

192 (5) The program year for a recovery program under this Code section is the state's fiscal
193 year.

194 (c) A television manufacturer may fulfill the requirements of this Code section either
195 individually or in participation with other television manufacturers. A recovery program
196 may use existing collection and consolidation infrastructure for collecting covered
197 televisions, including retailers, recyclers, and reuse organizations.

198 (d) A television manufacturer shall provide the department with contact information for
199 the manufacturer's designated agent or employee whom the department may contact for
200 information related to the manufacturer's compliance with the requirements of this Code
201 section.

202 12-8-226.

203 A computer or television manufacturer shall not be liable for damages arising from
204 information stored on a covered device collected from a consumer under the manufacturer's
205 recovery programs of this article.

206 12-8-227.

207 (a) A retailer shall only sell or offer to sell a covered device that:

208 (1) Bears a manufacturer label as provided in Code Section 12-8-223; and

209 (2) Is manufactured by a manufacturer that offers a recovery program as provided in
210 Code Sections 12-8-224 and 12-8-225.

211 (b) The requirements of this Code section shall not apply to a television sold by a retailer
212 for less than \$100.00.

213 12-8-228.

214 A retailer shall not be liable for damages arising from information stored on any covered
215 device collected from a consumer under the manufacturer's recovery program.

216 12-8-229.

217 (a) After July 1, 2013, a consumer shall not knowingly place or discard a covered device
218 or any of the components or subassemblies of a covered device in any waste stream that
219 is to be disposed of in a solid waste landfill.

220 (b) An owner or operator of a solid waste landfill shall not, at the gate, knowingly accept
221 for disposal loads containing more than an incidental amount of covered devices.

222 (c) The owner or operator of a solid waste landfill shall post, in a conspicuous location at
223 the landfill, a sign stating that covered devices or any components of covered devices are
224 not accepted for disposal at the landfill.

225 (d) The owner or operator of a solid waste landfill shall notify, in writing, all haulers
226 delivering solid waste to the landfill that covered devices or any components of covered
227 devices are not accepted for disposal at the landfill.

228 12-8-230.

229 The department shall provide information to the public on its Internet website regarding
230 the provisions of this article and the prohibition on disposing covered devices in a solid
231 waste landfill. The department also shall provide information about recovery programs
232 available in this state on the department's Internet website. The website shall include
233 information about collection options available, the definition of covered devices, the proper
234 methods for disposing of covered devices, the proper methods for disposing noncovered

235 devices, and links to relevant portions of computer or television manufacturers' Internet
236 websites.

237 12-8-231.

238 The department may conduct audits and inspections of a computer or television
239 manufacturer, retailer, or recoverer to determine compliance with this article's provisions
240 and may establish by regulation administrative fines for violations of this article.

241 12-8-232.

242 Financial and proprietary information submitted to the department pursuant to this article
243 shall be exempt from public disclosure.

244 12-8-233.

245 The department shall annually report information provided by manufacturers on recovery
246 programs offered pursuant to this article.

247 12-8-234.

248 (a) Covered devices shall be recovered in a manner that complies with all applicable
249 federal, state, and local requirements.

250 (b) Recoverers shall at a minimum comply with the responsible recycling practices
251 developed by the Institute of Scrap Recycling Industries as of January 1, 2013, or other
252 comparable industry or governmental standards adopted by rule or regulation of the Board
253 of Natural Resources.

254 12-8-235.

255 The Board of Natural Resources shall promulgate rules and regulations needed to
256 implement this article's provisions including, but not limited to, reporting requirements,
257 manufacturers' plans, manufacturers' annual reports, and standards for operations of
258 recovery facilities. The board may propose by rule or regulation an initial registration fee
259 or annual fee, or both, on computer or television manufacturers in such amounts as are
260 reasonable and necessary to offset the costs of implementing the provisions of this article.
261 Any fee proposed by the board shall be graduated based on the computer manufacturer's
262 volume of sales in this state. Any registration fee or annual fee for television
263 manufacturers shall be based on market share as defined in Code Section 12-8-225. A
264 manufacturer that sells one thousand or fewer covered devices per year shall be exempt
265 from any fee.

266 12-8-236

267 A retailer shall be allowed until July 1, 2013, to sell any inventory purchased prior to
268 January 1, 2013, before having to comply with the applicable provisions of this article."

269 **SECTION 2.**

270 This Act shall become effective on January 1, 2013.

271 **SECTION 3.**

272 All laws and parts of laws in conflict with this Act are repealed.