

An Act

SENATE BILL 12-133

BY SENATOR(S) Schwartz, Aguilar, King S., Newell, White, Bacon, Boyd, Carroll, Foster, Giron, Guzman, Heath, Hodge, Hudak, Jahn, Johnston, Morse, Nicholson, Roberts, Spence, Steadman, Tochtrop, Williams S., Shaffer B.;

also REPRESENTATIVE(S) Coram, Court, Fields, Fischer, Hamner, Hullinghorst, Jones, Kefalas, Kerr A., Labuda, Pabon, Pace, Singer, Todd, Tyler, Vigil, Wilson, Young.

CONCERNING THE DIVERSION OF ELECTRONIC DEVICES FROM LANDFILLS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 3 to article 17 of title 25 as follows:

PART 3 ELECTRONIC DEVICE RECYCLING

25-17-301. Short title. THIS PART 3 SHALL BE KNOWN AND MAY BE CITED AS THE "ELECTRONIC RECYCLING JOBS ACT".

25-17-302. Definitions. AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COMMISSION" MEANS THE SOLID AND HAZARDOUS WASTE COMMISSION CREATED IN SECTION 25-15-302.

(2) "CONSUMER" MEANS A PERSON WHO HAS PURCHASED AN ELECTRONIC DEVICE PRIMARILY FOR PERSONAL OR HOME BUSINESS USE.

(3) (a) "ELECTRONIC DEVICE" MEANS A DEVICE THAT IS MARKETED BY A MANUFACTURER FOR USE BY A CONSUMER AND THAT IS:

(I) A COMPUTER, PERIPHERAL, PRINTER, FACSIMILE MACHINE, DIGITAL VIDEO DISC PLAYER, VIDEO CASSETTE RECORDER, OR OTHER ELECTRONIC DEVICE SPECIFIED BY RULE PROMULGATED BY THE COMMISSION; OR

(II) A VIDEO DISPLAY DEVICE OR COMPUTER MONITOR, INCLUDING A LAPTOP, NOTEBOOK, ULTRABOOK, OR NETBOOK COMPUTER, TELEVISION, TABLET OR SLATE COMPUTER, ELECTRONIC BOOK, OR OTHER ELECTRONIC DEVICE SPECIFIED BY RULE PROMULGATED BY THE COMMISSION THAT CONTAINS A CATHODE RAY TUBE OR FLAT PANEL SCREEN WITH A SCREEN SIZE THAT IS GREATER THAN FOUR INCHES, MEASURED DIAGONALLY.

(b) "ELECTRONIC DEVICE" DOES NOT INCLUDE:

(I) A DEVICE THAT IS PART OF A MOTOR VEHICLE OR ANY COMPONENT PART OF A MOTOR VEHICLE, INCLUDING REPLACEMENT PARTS FOR USE IN A MOTOR VEHICLE;

(II) A DEVICE, INCLUDING A TOUCH-SCREEN DISPLAY, THAT IS FUNCTIONALLY OR PHYSICALLY PART OF OR CONNECTED TO A SYSTEM OR EQUIPMENT DESIGNED AND INTENDED FOR USE IN ANY OF THE FOLLOWING SETTINGS, INCLUDING DIAGNOSTIC, MONITORING, OR CONTROL EQUIPMENT:

(A) INDUSTRIAL;

(B) COMMERCIAL, INCLUDING RETAIL;

(C) LIBRARY CHECKOUT;

(D) TRAFFIC CONTROL;

- (E) SECURITY, SENSING, MONITORING, OR COUNTERTERRORISM;
- (F) BORDER CONTROL;
- (G) MEDICAL; OR
- (H) GOVERNMENTAL OR RESEARCH AND DEVELOPMENT;
- (III) A DEVICE THAT IS CONTAINED WITHIN ANY OF THE FOLLOWING:
 - (A) A CLOTHES WASHER OR DRYER;
 - (B) A REFRIGERATOR, FREEZER, OR REFRIGERATOR AND FREEZER;
 - (C) A MICROWAVE OVEN OR CONVENTIONAL OVEN OR RANGE;
 - (D) A DISHWASHER;
 - (E) A ROOM AIR CONDITIONER, DEHUMIDIFIER, OR AIR PURIFIER; OR
 - (F) EXERCISE EQUIPMENT;
- (IV) A DEVICE CAPABLE OF USING COMMERCIAL MOBILE RADIO SERVICE, AS DEFINED IN 47 CFR 20.3, THAT DOES NOT CONTAIN A VIDEO DISPLAY AREA GREATER THAN FOUR INCHES, MEASURED DIAGONALLY; OR
- (V) A TELEPHONE.

(4) "LANDFILL" MEANS A SOLID WASTES DISPOSAL SITE AND FACILITY, AS THAT TERM IS DEFINED IN SECTION 30-20-101 (8), C.R.S.

(5) "PERIPHERAL" MEANS A KEYBOARD, MOUSE, OR OTHER DEVICE THAT IS SOLD EXCLUSIVELY FOR EXTERNAL USE WITH A COMPUTER AND PROVIDES INPUT OR OUTPUT INTO OR FROM A COMPUTER.

(6) "PROCESSING FOR REUSE" MEANS A METHOD, TECHNIQUE, OR PROCESS BY WHICH ELECTRONIC DEVICES THAT WOULD OTHERWISE BE DISPOSED OF OR DISCARDED ARE INSTEAD SEPARATED, PROCESSED, AND RETURNED TO THEIR ORIGINAL INTENDED PURPOSES OR TO OTHER USEFUL PURPOSES AS ELECTRONIC DEVICES.

(7) "RECYCLE" OR "RECYCLING" MEANS PROCESSING, INCLUDING DISASSEMBLING, DISMANTLING, SHREDDING, AND SMELTING, AN ELECTRONIC DEVICE OR ITS COMPONENTS TO RECYCLE A USEABLE COMPONENT, COMMODITY, OR PRODUCT, INCLUDING PROCESSING FOR REUSE. "RECYCLING", WITH RESPECT TO ELECTRONIC DEVICES, DOES NOT INCLUDE ANY PROCESS DEFINED AS INCINERATION UNDER APPLICABLE LAWS OR RULES.

(8) "STATE AGENCY" MEANS ANY DEPARTMENT, COMMISSION, COUNCIL, BOARD, BUREAU, COMMITTEE, INSTITUTION OF HIGHER EDUCATION, AGENCY, OR OTHER GOVERNMENTAL UNIT OF THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCH OF STATE GOVERNMENT.

(9) (a) "VIDEO DISPLAY DEVICE" MEANS:

(I) AN ELECTRONIC DEVICE WITH AN OUTPUT SURFACE THAT DISPLAYS OR IS CAPABLE OF DISPLAYING MOVING GRAPHICAL IMAGES OR VISUAL REPRESENTATIONS OF IMAGE SEQUENCES OR PICTURES THAT SHOW A NUMBER OF QUICKLY CHANGING IMAGES ON A SCREEN TO CREATE THE ILLUSION OF MOTION; OR

(II) AN ELECTRONIC DEVICE WITH A VIEWABLE SCREEN OF FOUR INCHES OR LARGER, MEASURED DIAGONALLY, THAT CONTAINS A TUNER THAT LOCKS ON TO A SELECTED CARRIER FREQUENCY OR CABLE SIGNAL AND IS CAPABLE OF RECEIVING AND DISPLAYING TELEVISION OR VIDEO PROGRAMMING VIA BROADCAST, CABLE, OR SATELLITE.

(b) "VIDEO DISPLAY DEVICE" INCLUDES A DEVICE THAT IS AN INTEGRAL PART OF THE DISPLAY AND CANNOT EASILY BE REMOVED FROM THE DISPLAY BY THE CONSUMER AND THAT PRODUCES THE MOVING IMAGE ON THE SCREEN. A VIDEO DISPLAY DEVICE MAY USE A CATHODE RAY TUBE, LIQUID CRYSTAL DISPLAY, GAS PLASMA, DIGITAL LIGHT PROCESSING, OR OTHER IMAGE-PROJECTION TECHNOLOGY.

(c) "VIDEO DISPLAY DEVICE" DOES NOT INCLUDE A DEVICE THAT IS PART OF A MOTOR VEHICLE OR ANY COMPONENT PART OF A MOTOR VEHICLE ASSEMBLED BY, OR FOR, A VEHICLE MANUFACTURER OR FRANCHISED DEALER, INCLUDING REPLACEMENT PARTS FOR USE IN A MOTOR VEHICLE.

25-17-303. Landfill ban - rules. BY JULY 1, 2013, A PERSON SHALL

NOT DISPOSE OF AN ELECTRONIC DEVICE OR A COMPONENT OF AN ELECTRONIC DEVICE IN A LANDFILL IN THIS STATE; EXCEPT THAT A BOARD OF COUNTY COMMISSIONERS FOR A COUNTY THAT DOES NOT HAVE AT LEAST TWO ELECTRONIC WASTE RECYCLING EVENTS PER YEAR OR AN ONGOING ELECTRONIC WASTE RECYCLING PROGRAM THAT SERVES RESIDENTS OF THE COUNTY MAY, BY MAJORITY VOTE OF THE COMMISSIONERS AND IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION, EXEMPT ITS RESIDENTS FROM THE BAN ESTABLISHED BY THIS SECTION. A COUNTY SHALL MAKE A GOOD FAITH EFFORT TO SECURE THE ELECTRONIC WASTE RECYCLING SERVICES BEFORE THE BOARD OF COMMISSIONERS MAY EXEMPT THE COUNTY'S RESIDENTS FROM THE LANDFILL BAN. AN EXEMPTION FROM THE LANDFILL BAN IS VALID FOR TWO YEARS, AFTER WHICH THE BOARD MAY VOTE ON ANOTHER TWO-YEAR EXEMPTION AFTER AGAIN MAKING A GOOD FAITH EFFORT TO SECURE A VENDOR TO PROVIDE THE RECYCLING SERVICES. A COUNTY IS NOT REQUIRED TO PAY FOR THE RECYCLING SERVICES. COUNTIES THAT CURRENTLY DO NOT HAVE SUCH SERVICES ARE ENCOURAGED TO WORK WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND OTHER ENTITIES, SUCH AS THE COLORADO ASSOCIATION FOR RECYCLING, OR ITS SUCCESSOR ORGANIZATION, TO FIND AN ELECTRONICS RECYCLING VENDOR THAT WILL SERVE THAT COUNTY.

25-17-304. State electronic device recycling - rules.

(1) EFFECTIVE JULY 1, 2013, EACH STATE AGENCY SHALL RECYCLE ITS ELECTRONIC DEVICES. THE AGENCY SHALL USE ONLY A RECYCLER THAT IS CERTIFIED TO A NATIONAL ENVIRONMENTAL CERTIFICATION STANDARD SUCH AS THE R2 OR E-STEWARD STANDARDS OR OTHER COMPARABLE RECYCLING OR DISPOSAL STANDARD; EXCEPT THAT THIS CERTIFICATION REQUIREMENT DOES NOT APPLY TO PROCESSING FOR REUSE CONDUCTED ON BEHALF OF STATE AGENCIES AS STIPULATED IN SECTION 17-24-106.6, C.R.S., BY THE DIVISION OF CORRECTIONAL INDUSTRIES CREATED IN SECTION 17-24-104, C.R.S. THE COMMISSION MAY ADOPT RULES TO AVOID THE USE OF CERTIFICATIONS THAT ARE NOT COMPARABLE.

(2) UPON RECEIPT OF A DEVICE, A RECYCLER THAT ACCEPTS AN ELECTRONIC DEVICE FROM A STATE AGENCY SHALL PROVIDE THE AGENCY WITH APPROPRIATE DOCUMENTATION VERIFYING THE RECYCLER'S CERTIFICATION AS REQUIRED IN SUBSECTION (1) OF THIS SECTION.

25-17-305. Immunity. (1) A RECYCLER IS NOT LIABLE FOR PERSONAL OR FINANCIAL DATA OR OTHER INFORMATION THAT A CONSUMER

OR STATE AGENCY MAY LEAVE ON AN ELECTRONIC DEVICE THAT IS COLLECTED, PROCESSED, OR RECYCLED UNLESS THE RECYCLER ACTED IN A GROSSLY NEGLIGENT MANNER.

(2) A WASTE HAULER, AS THAT TERM IS DEFINED IN SECTION 30-20-1001 (16), C.R.S., OR OWNER OR OPERATOR OF A LANDFILL OR TRANSFER STATION DOES NOT VIOLATE THIS PART 3 IF THE HAULER, OWNER, OR OPERATOR HAS MADE A GOOD-FAITH EFFORT TO COMPLY WITH THIS PART 3 BY POSTING AND MAINTAINING, IN A CONSPICUOUS LOCATION AT THE WASTE HAULER'S FACILITY, TRANSFER STATION, OR THE LANDFILL, A SIGN STATING THAT ELECTRONIC DEVICES WILL NOT BE ACCEPTED AT THE FACILITY, TRANSFER STATION, OR LANDFILL.

25-17-306. Public education. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL COORDINATE WITH EXISTING PUBLIC AND PRIVATE EFFORTS REGARDING THE DEVELOPMENT AND IMPLEMENTATION OF A PUBLIC EDUCATION PROGRAM ABOUT THE RECYCLING OF ELECTRONIC DEVICES, THE REMOVAL OF DATA FROM AN ELECTRONIC DEVICE BEING OFFERED FOR RECYCLING, THE BENEFITS OF ELECTRONIC DEVICE RECYCLING, HOW TO FIND ELECTRONIC DEVICE RECYCLERS, AND IMPLEMENTATION OF THE LANDFILL BAN PURSUANT TO SECTION 25-17-303. THE DEPARTMENT SHALL PERFORM THESE FUNCTIONS WITHIN ITS EXISTING RESOURCES.

25-17-307. Charitable donations of electronic devices. (1) A CHARITABLE ORGANIZATION, AS DEFINED IN SECTION 6-16-103 (1), C.R.S., MAY:

(a) REFUSE TO ACCEPT A DONATION OF AN ELECTRONIC DEVICE; AND

(b) ESTABLISH A SURCHARGE FOR ACCEPTANCE OF A DONATION OF AN ELECTRONIC DEVICE.

25-17-308. Rules. THE COMMISSION SHALL ADOPT RULES NECESSARY TO IMPLEMENT THIS PART 3.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3)

of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act apply to acts occurring on or after the applicable effective date of this act.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO