



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bills 897 and 898 (as enacted)
House Bills 6714 and 6715 (as enacted)
Sponsor: Senator Valde Garcia (S.B. 897)

Senator Patricia L. Birkholz (S.B. 898)
Representative Rebekah Warren (H.B. 6714)
Representative Fred Miller (H.B. 6715)

Senate Committee: Natural Resources and Environmental Affairs
House Committee: Great Lakes and Environment (H.B. 6714 & 6715)

Date Completed: 1-29-09

PUBLIC ACTS 394 & 395 of 2008
PUBLIC ACTS 392 & 393 of 2008

RATIONALE

Consumer electronics, including computers, televisions, printers, audio equipment, and phones, make up almost 2% of the municipal solid waste stream, according to the U.S. Environmental Protection Agency (EPA). Although this percentage might appear small, the quantity of electronic waste, or e-waste, is increasing. In 1998, it was estimated that about 20.0 million computers became obsolete in one year; by 2007, that number had more than doubled. When U.S. consumers must switch from analog to digital television service in 2009, the volume of e-waste is expected to surge. In addition to taking up landfill space, discarded electronics present environmental concerns due to their content of lead, mercury, cadmium, and brominated fire retardants.

Over the last five years, approximately 18 states have passed laws or regulations addressing the disposal of electronic devices. These measures range from laws that ban video display devices (e.g., televisions) from landfills and incinerators, or impose landfill disposal fees to support an electronics recycling program, to more comprehensive approaches that impose labeling and registration requirements on electronics manufacturers, prohibit the sale of devices made by noncomplying manufacturers, and require manufacturers to participate in recovery efforts, including collection, transportation, and "takeback" programs. Many people believe that

Michigan also should require computer and television manufacturers to collect and recycle their products when those devices have reached the end of their useful life.

CONTENT

The bills added Part 173 (Electronics) to the Natural Resources and Environmental Protection Act to establish requirements for manufacturers and recyclers of covered electronic devices (covered computers and covered video display devices).

Senate Bill 897 does the following:

- **Requires manufacturers that sell new covered electronic devices to register annually with the Department of Environmental Quality (DEQ) and, until October 1, 2015, pay an annual registration fee of \$3,000.**
- **Requires the DEQ to maintain a list of registered manufacturers on its website.**
- **Beginning April 1, 2010, prohibits a manufacturer from selling a new covered electronic device unless the manufacturer has a takeback program, the manufacturer's name is on the DEQ list, and the device meets labeling requirements.**
- **Prohibits a retailer from selling a new electronic device purchased**

- from a manufacturer that is not on the DEQ list, beginning April 1, 2010.
- Requires manufacturers of covered electronic devices, beginning April 1, 2010, to implement a takeback program that will accept covered computers or covered video display devices from consumers.
 - Creates the Electronic Waste Advisory Council and requires it to make certain recommendations.
 - Creates the "Electronic Waste Recycling Fund" to pay for the DEQ's expenses of administering Part 173.
 - Requires manufacturers' registration fees to be deposited in the Fund.

Senate Bill 898 does the following:

- Requires a person engaging in the business of recycling covered electronic devices to register annually with the DEQ.
- Until October 1, 2015, requires a recycler to pay an annual \$2,000 registration fee, which must be deposited in the Fund.
- Requires recyclers to report to the DEQ the total weight of covered electronic devices recycled each year, beginning October 30, 2010.
- Requires recyclers to employ industry-accepted procedures, maintain a management system, and maintain records
- Prohibits recyclers from using prison labor to process covered electronic devices.
- Grants manufacturers, recyclers, collectors, and retailers immunity from liability for the loss or use of data from an information storage device of a covered electronic device.

House Bill 6714 does the following:

- Requires covered electronic devices to be recycled in compliance with Federal, State, and local laws.
- Requires DEQ rules that regulate recycling to be consistent with EPA guidelines and industry standards.
- Requires the DEQ to report to legislative committees if Federal law establishes a national program for the collection and recycling of computer equipment.

House Bill 6715 does the following:

- Requires the DEQ to enforce Part 173 to the extent funds are appropriated.
- Allows the DEQ to inspect the operations of a recycler to assess compliance.
- Prescribes civil and criminal fines for violations of Part 173.
- Allows the DEQ to suspend or revoke a recycler's registration for a third or subsequent violation.

All of the bills were tie-barred to each other and took effect on December 29, 2008.

Senate Bill 897

Definitions

The bill defines "consumer" as a person who used a covered electronic device primarily for personal or small business purposes in Michigan. "Small business" means a business with 10 or fewer employees.

"Manufacturer" means any of the following:

- The person who owns the brand with which a covered computer is labeled.
- The person who owns or is licensed to use the brand with which a covered video display device is labeled.
- If the brand owner does not do business in the United States, the person on whose account a covered electronic device was imported into the U.S.
- A person who contractually assumes the responsibilities and obligations of one of the people described above.

The term does not include a person who did not manufacture, sell, or import more than 50 covered computers in 2000 or any subsequent calendar year or more than 50 covered video display devices in the previous calendar year.

"Covered electronic device" means a covered computer or covered video display device. "Covered computer" means a computer that was or will be used primarily for personal or small business purposes in Michigan. "Computer" means a desktop personal computer or laptop computer, a computer monitor, or, beginning April 1, 2011, a printer. The term does not include a personal digital assistant device or mobile telephone, or a computer peripheral device, including a mouse or similar pointing device, or a detachable or wireless keyboard.

"Covered video display device" means a video display device that was or will be used primarily for personal or small business purposes in Michigan. "Video display device" means an electronic device with a viewable screen of four inches or larger that contains a tuner that locks onto a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite. The term includes a direct view or projection TV whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXR), light emitting diode (LED), or similar technology.

The terms "covered computer" and "covered video display device" do not include a device that is functionally or physically part of, connected to, or integrated within a larger piece of equipment or system designed and intended for use (or, in the case of a covered video display device, for transportation) in an industrial, governmental, commercial, research and development, or medical setting, including diagnostic, monitoring, or control products approved under the Federal Food, Drug, and Cosmetic Act, equipment used for security, sensing, monitoring, antiterrorism, or emergency services purposes, or equipment designed and intended primarily for use by professional users.

"Printer" means a printer or a multifunction or "all-in-one" device that, in addition to printing, performs one or more other operations such as copying, scanning, or faxing, that is designed to be placed on a desk or other work surface, and may use any of various print technologies, such as laser and LED (electrographic), ink jet, dot matrix, thermal, or digital sublimation. The term does not include a floor-standing printer, a printer with an optional floor stand, a point of sale (POS) receipt printer, a household printer such as a calculator with printing capabilities or a label maker, or a non-stand-alone printer that is embedded into a product other than a covered computer.

Manufacturer Registration

Within 30 days after the end of each State fiscal year, a manufacturer that sells or offers for sale to any person in the State a

new covered electronic device must register with the DEQ on a form provided by the Department. The registration will expire 30 days after the end of the following State fiscal year. After October 30, 2009, a manufacturer that has not already filed a registration under Part 173 must submit a registration within 10 business days after it begins to sell or offer for sale new covered electronic devices in this State.

A registration must include all of the following:

- The manufacturer's name, address, and telephone number.
- Each brand name under which the manufacturer sells or offers for sale covered electronic devices in Michigan.
- Information about the manufacturer's electronic device takeback program.

The takeback program information must include all of the following:

- Information given to consumers on how and where to return the manufacturer's covered devices.
- The means by which that information is disseminated to consumers, including the relevant website address if the internet is used.
- Beginning with the first registration submitted after the program's implementation, a report on the implementation during the prior State fiscal year.

The report must include all of the following:

- The total weight of the covered electronic devices received by the takeback program from consumers the previous year.
- The processes and methods used to recycle or reuse the covered devices received from consumers.
- The identity of any collector or recycler with which the manufacturer contracts for the collection or recycling of covered electronic devices received from consumers.

The identity of a recycler must include the addresses of its recycling facilities in Michigan, if any. The reported identity of a collector or recycler is exempt from disclosure under the Freedom of Information

Act (FOIA), and the DEQ may not disclose it unless required by court order.

Until October 1, 2015, a registration must be accompanied by an annual fee of \$3,000. Revenue from the registration fees must be deposited in the Electronic Waste Recycling Fund. If the amount of money in the Fund on December 31 of any year exceeds \$600,000, the DEQ may not collect manufacturers' registration fees for the following State fiscal year.

An administratively complete registration will be effective when the DEQ receives it. If a manufacturer's registration does not meet the requirements of Part 173 and rules promulgated under it, the DEQ must notify the manufacturer of the deficiency. If the manufacturer fails to correct the deficiency within 60 days after notice is sent, the DEQ may deny or revoke the manufacturer's registration, after providing an opportunity for a contested case hearing under the Administrative Procedures Act.

A registration will be valid until October 30 of each year. A manufacturer must update its registration within 10 business days after a change in the brands of covered electronic devices from that manufacturer sold or offered for sale in Michigan.

The DEQ must maintain on its website a list of registered manufacturers of computers and a list of registered manufacturers of video display devices, and the website addresses at which they provide information on recycling covered electronic devices.

By October 1, 2011, and every two years after that date, the DEQ must submit to the Secretary of the Senate and the Clerk of the House of Representatives a report that assesses the adequacy of manufacturers' registration fees and any departmental recommendations to modify them.

Sale of Covered Devices

Beginning April 1, 2010, a manufacturer may not sell or offer for sale to any person in Michigan, through sales outlets, catalogs, mail order, the internet, or any other means, a new covered electronic device unless all of the following requirements are met:

- The device is labeled with the manufacturer's name or brand label, owned by or, in the case of a video display device, licensed for use by the manufacturer.
- The manufacturer's name appears on the applicable registration list maintained by the DEQ.
- The manufacturer has a computer takeback program, if the device is a covered computer.
- The manufacturer has a video display device takeback program, if the device is a covered video display device.

A retailer may not sell or offer for sale to any person in this State a new covered electronic device from a manufacturer, purchased by the retailer on or after April 1, 2010, unless the manufacturer appears on the applicable registration list.

The bill defines "retailer" as a person that sells a covered electronic device to a consumer by any means, including transactions conducted through sales outlets, catalogs, mail order, or the internet, whether or not the person has a physical presence in this State.

Takeback Programs

Beginning April 1, 2010, each manufacturer of covered computers or covered video display devices must implement a takeback program that meets the criteria described below.

A manufacturer or its designee must accept from a consumer a covered computer or covered video display device that has reached the end of its useful life for the consumer. In the case of a video display device, this applies regardless of the type or brand of the device. Regarding a covered computer, the bill states that Part 173 may not be construed to impair the obligation of a contract under which a person agrees to conduct a computer takeback program on behalf of a manufacturer.

A consumer may not be required to pay a separate fee when returning the covered computer to the manufacturer or its designee, or when returning the video display device through the takeback program of any manufacturer of any covered video display device.

The collection of covered computers or covered video display devices must be reasonably convenient and available to consumers in Michigan, and otherwise designed to meet their needs. Examples of collection methods that alone or combined will meet this convenience requirement include systems for a consumer to return a covered computer or video display device by one or more of the following means:

- Mail or common carrier shipper.
- Deposit at a local physical collection site that is kept open and staffed on a continuing basis.
- Deposit during periodic local collection events.
- Deposit with a retailer.

The manufacturer must give a consumer information on how and where to return a covered computer or video display device, including collection, recycling, and reuse information on the manufacturer's publicly available website. The manufacturer also may include collection, recycling, and reuse information in the packaging for or in other materials accompanying its covered computers or video display devices when they are sold or may provide that information via a toll-free telephone number.

A manufacturer must recycle or arrange for the recycling of any covered electronic devices collected. For each manufacturer required to conduct a video display device takeback program, the bill sets a nonbinding target of annually recycling 60% of the total weight of covered video display devices it sold in Michigan during the prior State fiscal year. Sales data under this provision are exempt from disclosure under FOIA, and may not be disclosed by the DEQ unless required by court order.

A manufacturer may conduct a computer takeback program or a video display device takeback program alone or in conjunction with other manufacturers. A manufacturer may arrange for the collection and recycling of covered computers or covered video display devices by another person to fulfill its obligations under these provisions.

A manufacturer's takeback program is not required to accept more than seven covered computers or seven covered video display

devices from a single consumer on a single day.

Electronic Waste Advisory Council

The bill creates the Council within the legislative branch of State government. The Council must consist of four members appointed by the Senator Majority Leader, four appointed by the Speaker of the House of Representatives, and two by the Governor. The Council will be dissolved effective July 1, 2012.

The members to be appointed by the Senate Majority Leader include one Senator and one individual representing each of the following:

- Covered video display device manufacturers.
- Recyclers of covered computers or covered video display devices.
- A trade association of computer manufacturers and video display device manufacturers.

The members to be appointed by the Speaker of the House include one member of the House and one individual representing each of the following:

- Covered computer manufacturers.
- Retailers of covered computers or covered video display devices.
- An agency responsible for a countywide recycling program.

The members to be appointed by the Governor include one individual representing a statewide conservation organization, and one representing the DEQ.

The appointments had to be made within 30 days after the bill's effective date. Council members will serve for the life of the Council. Members must serve without compensation (or without additional compensation, in the case of the DEQ representative).

The Council members who are members of the Senate and the House are to serve as co-chairs of the Council and must call its first meeting, at which the Council must elect other officials it considers necessary or appropriate. After the first meeting, the Council must meet quarterly or more frequently at the call of a co-chair or if

requested by two or more members. The Council is subject to the Open Meetings Act and FOIA.

By April 1, 2012, the Council must submit a report to the Governor, the DEQ, and the standing committees of the Legislature with jurisdiction over issues primarily pertaining to natural resources and the environment. The report must evaluate the program under Part 173 and make recommendations to improve the recycling of covered electronic devices. The report must evaluate all of the following in light of the policies and objectives set forth in Section 11514 (described below):

- Whether a manufacturer's market share should be used to determine the amount of video display devices required to be recycled annually by the manufacturer.
- Whether a manufacturer with a takeback program that recycles electronic waste at a higher rate than provided for in Part 173 should be granted credits and, if so, the life of the credits, whether they would be transferable, and how the credit system otherwise should operate.
- Whether the nonbinding target for manufacturers recycling covered video display devices should be increased and whether it should be made mandatory.
- What items should be included in a mandatory takeback program and, if new items are recommended, what the recycling rates for them should be.
- Whether and how a manufacturer should be sanctioned for failing to meet the requirements of Part 173.
- Whether funding for the administration of Part 173 is appropriate or needs to be increased or decreased.
- Whether a program should be developed to recognize manufacturers that implement an expanded recycling program for additional products such as printers or recycled electronic waste at a rate higher than that provided for in Part 173.
- Whether a system should be developed to collect covered electronic devices that a manufacturer otherwise does not collect.
- Whether additional recycling data, such as the amount of covered electronic devices collected by collectors, should be collected and, if so, how.
- Whether a program should be developed and funding obtained for grants to expand recycling and recovery programs

for covered electronic devices and to provide consumer education related to those programs.

- Whether a disposal ban for covered electronic devices is appropriate.

Electronic Waste Recycling Fund

The bill creates the Fund within the State Treasury. Money in the Fund must be spent, upon appropriation, for the DEQ's administrative expenses in implementing Part 173.

The State Treasurer may receive money or other assets from any source for deposit into the Fund. The State Treasurer must direct investment of the Fund, and credit to it interest and earnings from Fund investments. The DEQ must be the administrator of the Fund for auditing purposes. Money in the Fund at the close of the fiscal year must remain in the Fund and not lapse to the General Fund.

Solid Waste Management Plan

Section 11514 states that optimizing recycling opportunities and the reuse of materials are a principal objective of Michigan's solid waste management plan. The bill refers to optimizing recycling opportunities, including electronics recycling opportunities.

The section also states that recycling and reuse of materials are in the best interest of promoting the public health and welfare. The bill refers to recycling and reuse of materials, including the reuse of materials from electronic devices.

The bill states, "Policies and practices that promote recycling and reuse of materials, including materials from electronic devices, will conserve raw materials, conserve landfill space, and avoid the contamination of soil and groundwater from heavy metals and other pollutants."

Senate Bill 898

Recycler Registration & Report

Under the bill, within 30 days after the end of each State fiscal year, a person who engages in the business of recycling covered electronic devices must register with the DEQ on a form provided by the Department.

The registration will expire 30 days after the end of the following State fiscal year. After October 30, 2009, a recycler who has not already filed a registration must do so within 10 business days after beginning to recycle covered electronic devices.

A registration must include the name, address, telephone number, and location of all recycling facilities under the direct control of the recycler and located in this State that may receive covered electronic devices. A registration also must include a certification by the recycler that it substantially meets the requirements of Section 17315. (Under House Bill 6714, that section requires covered electronic devices to be recycled in compliance with Federal, State, and local laws, and requires recycling rules to be consistent with EPA guidelines and industry practices.)

Until October 1, 2015, a registration must be accompanied by a \$2,000 annual fee. Fee revenue must be deposited in the Electronic Waste Recycling Fund.

By October 1, 2011, and every two years after that date, the DEQ must submit to the Secretary of the Senate and the Clerk of the House a report assessing the adequacy of the fee and any departmental recommendation to modify it.

A recycler's registration will be effective upon receipt by the DEQ if the registration is administratively complete. If a registration does not meet the requirements of Part 173 and any rules promulgated under it, the DEQ must notify the recycler of the deficiency. If the recycler fails to correct the deficiency within 60 days after the notice is sent, the DEQ may deny or revoke the recycler's registration, after providing an opportunity for a contested case hearing.

Submitting a false registration is a violation of Part 173.

Beginning October 30, 2010, a recycler must report the total weight of covered electronic devices recycled during the previous year. The recycler also keep a written log that records the weight of covered video display devices and the total weight of covered computers delivered to the recycler and identified as such on receipt. The total weight reported in the registration must be based on this log.

(Senate Bill 897 defines "recycler" as a person who as a principal component of business operations acquires covered electronic devices and sorts and processes them to facilitate recycling or resource recovery techniques. The term does not include a collector, hauler, or electronics shop. "Collector" means a person who receives covered electronic devices from consumers and arranges for their delivery to a recycler.)

Recycler Requirements

A recycler must employ industry-accepted procedures substantially equivalent to those specified by the U.S. Department of Defense for the destruction or sanitization of data on hard drives and other data storage devices.

A recycler also must maintain a documented environmental, health, and safety management system that may be audited and is compliant with or equivalent to ISO 14001 (the international specification for environmental management).

In addition, a recycler must maintain records identifying all people to whom the recycler provided electronic devices or materials derived from electronic devices for the purpose of conducting additional recycling, and the weight and volume of material provided to each of those people.

A recycler may not use State or Federal prison labor to process covered electronic devices or transact with a third party that uses or subcontracts for the use of prison labor.

Other Provisions

Except to the extent otherwise provided by contract, a recycler, manufacturer, retailer, or collector is not liable for the loss or use of data or other information from an information storage device of a covered electronic device collected or recycled under Part 173. This liability exemption applies to a recycler, however, only if the recycler employs industry-accepted procedures for the destruction or sanitization of data, as described above.

The bill specifies that management of covered electronic devices consistent with Part 173 is not considered disposal for purposes of Section 11538(6). (Under that

section, in order for a solid waste disposal area to serve the disposal needs of another county, state, or country, the service must be explicitly authorized in the approved solid waste management plan of the receiving county. With regard to intercounty service within Michigan, the service also must be explicitly authorized in the solid waste management plan of the exporting county.)

House Bill 6714

Recycling

The bill requires covered electronic devices collected under Part 173 to be recycled in a manner that complies with Federal and State laws, including rules promulgated by the DEQ, and local ordinances.

After April 1, 2012, the DEQ may promulgate rules for the purposes of this requirement and the manufacturer registration requirements. Any promulgated rules regulating the recycling of covered electronic devices collected under Part 173 must be consistent with the EPA's "Plug-In to Recycling Guidelines for Materials Management", as in effect on the bill's effective date, as well as with the Institute of Scrap Recycling Industries, Inc. publication, "Electronic Recycling Operating Practices", dated April 25, 2006.

National Computer Recycling Program

If Federal law establishes a national program for the collection and recycling of computer equipment, the DEQ, within 90 days, must submit a report to the Senate and House standing committees with primary responsibility for recycling and solid waste issues. The report must describe the Federal program, discuss whether provisions of Part 173 have been preempted, and recommend whether Part 173 should be amended or repealed.

House Bill 6715

Administration; Inspection

The bill requires the DEQ to administer and enforce Part 173 to the extent that funds are appropriated for that purpose. The DEQ may inspect the operations of a recycler of covered electronic devices to assess compliance with Part 173.

Violations

A person who violates Part 173 may be ordered to pay a maximum civil fine of \$500 for a first violation or \$2,500 for a second or subsequent violation. A civil fine must be deposited in the Electronic Waste Recycling Fund.

A person who knowingly violates Part 173 or knowingly submits false information to the DEQ under Part 173 is guilty of a misdemeanor punishable by a maximum fine of \$5,000. Each day on which such a violation occurs represents a separate violation.

After a contested case hearing, the DEQ may suspend or revoke the registration of a recycler that violates Part 173 a third or subsequent time. The Department must provide notice of the suspension or revocation on its website.

MCL 324.11514 et al. (S.B. 897)
324.17317 et al. (S.B. 898)
324.17315 et al. (H.B. 6714)
324.17325 & 324.17329 (H.B. 6715)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to EPA figures on select electronic products, including TVs and computers, the recycling rate was 15% from 1999 to 2005; that rate increased to 18% for 2006-2007, possibly because several states had started mandatory collection and recycling programs for electronics. As other states' laws take effect in the next couple of years, the reuse and recycling of electronic devices can be expected to increase further. Michigan should do its part to keep environmentally harmful electronic devices out of the waste stream, by requiring manufacturers to take responsibility for products bearing their brand name. Under Senate Bill 897, beginning in 2010, new computers, computer monitors, televisions, and other covered electronic devices may not be legally sold in Michigan unless their manufacturers register with the DEQ, comply with labeling requirements, and implement takeback programs that give individuals and small businesses a

reasonably convenient opportunity to return the manufacturers' products without a charge. Beginning in 2011, these requirements will apply to printers, as well. The manufacturers of covered devices will be responsible for recycling or arranging for the recycling of products collected.

By imposing responsibilities on both manufacturers and the DEQ, the bill establishes a public-private partnership without unduly burdening the industry. Businesses that manufacture covered electronic devices will have the flexibility to choose their collection methods, and will not have to accept more than seven computers or seven TVs from a single consumer in one day. Manufacturers may conduct takeback programs either alone or in conjunction with other manufacturers, and may arrange for collection and recycling by a third party.

In addition, although manufacturers will have to pay annual registration fees until October 2015, and may not charge consumers a fee, manufacturers have a financial incentive to recycle, since certain parts have value and can be reused or resold. At the same time, the reuse of products can decrease the need for raw materials, saving manufacturers money and preserving natural resources.

Supporting Argument

The bills will help ensure that covered electronic devices are recycled responsibly. According to an article in *Business Week*, "[A]s the e-waste industry proliferates...it has also become enmeshed in questionable practices that undercut its environmentally friendly image" ("E-Waste: The Dirty Secret of Recycling Electronics", 10-15-08). In some cases, recyclers dismantle electronic devices and dispose of anything with no value in a landfill. Other recyclers ship used or obsolete electronics overseas, often in violation of Federal regulations. Since January 2007, the EPA began regulating the export of cathode ray tubes, which can contain up to four pounds of lead, under a rule that requires companies to notify the EPA before exporting CRTs. According to an August 2008 report of the U.S. Government Accountability Office, however, U.S. hazardous waste regulations have not deterred exports of potentially hazardous used electronics, primarily because the rule focuses only on CRTs, companies easily circumvent the rule, and EPA enforcement is

lacking. In China and elsewhere, electronics are dismantled under conditions that are unsafe to the workers and the environmental. According to the *Business Week* article, the devices are striped for reusable microchips, copper, and silver, and dangerous metals are dumped nearby, often close to farms or sources of drinking water. The article also cites a 2007 study by Shantou University showing that the blood of children in rural Guiyu, China--which the article called "a notorious e-waste scavenging site"--contained lead at twice the acceptable level set by the U.S. Centers for Disease Control & Prevention.

Under Senate Bill 898 and House Bill 6714, covered electronic devices will have to be recycled in compliance with Federal, State, and local laws, and DEQ rules governing recycling must be consistent with EPA guidelines as well as practices established by the Institute of Scrap Recycling Industries, Inc. The Senate bill also requires recyclers to register with the DEQ and maintain a documented environmental, health, and safety management system that complies with or is equivalent to an international standard. Under House Bill 6715, recyclers that knowingly violate Part 173 will be subject to a criminal fine.

Opposing Argument

The bills impose new requirements on private industries, establish registration fees that will be passed on to consumers through higher prices, create a new fund as well as an advisory body, and add to the DEQ's responsibilities. The cost of the program is unknown, however, and the need for statutory mandates has not been demonstrated. The private sector already has implemented e-waste collection and recycling programs that are working.

Response: According to an article in *The New York Times*, "[W]hile some prominent manufacturers...have agreed to recycle their own equipment, such programs have so far made only a modest difference" ("For the Digitally Decreased, a Profitable Graveyard", 11-13-08).

Opposing Argument

Senate Bill 897 is too narrow in scope, omitting many devices with the same components as those that are covered. Products such as printers (which will not be covered until April 2011) and fax machines contain the same chemicals, metals, and

plastics as those in computers, and devices such as keyboards, mice, and cell phones comprise a significant amount of e-waste. For example, approximately 126.3 million cell phones were disposed of in 2006-2007, and only 14.0 million were recycled, according to the EPA. By targeting only computers and televisions, the bill will result in a program that does not effectively distribute the burden across all of the industries involved, or divert millions of harmful products from the waste stream.

Furthermore, the bill omits e-waste generated by businesses with more than 10 employees and other entities are not households or small businesses. Schools, for example, regularly get large donations of used electronic equipment, which has a very limited lifespan and can be costly to recycle. In addition, some of the largest generators of discarded products are governmental entities and nonprofits. By requiring manufacturers to take back electronic devices from only a small group of covered consumers, the bill will not adequately protect the environment or prevent the overseas shipment of electronic waste.

Response: The program could be expanded to additional products, as well as additional consumers, once it is under way. Printers will double the size of the program, and recycling them is not easy or economical. Therefore, the bill gives manufacturers a few years to establish their collection and recycling operations before requiring them to accept printers.

Legislative Analyst: Suzanne Lowe

Fiscal Analyst: Jessica Runnels

FISCAL IMPACT

The bills will generate an unknown amount of revenue for the State to be used for recycling electronic waste. The registration fees will be deposited into the Electronics Waste Recycling Fund and used for administrative expenses of the DEQ to implement this program. Activities could include administration of manufacturer and recycler registration programs and inspections of recyclers to assess compliance. The amount of fees collected will depend on the number of manufacturers and recyclers that register with the Department of Environmental Quality and how many of those manufacturers maintain a takeback program for covered electronic devices.

According to the United States Census Bureau, in 2002 there were 556 manufacturers of household electronic devices (electronic computers and terminals) based in the United States that would likely be subject to the provisions of Senate Bill 897 if they wanted to sell their products in Michigan. If all of these manufacturers register with the State of Michigan, approximately \$1,668,000 will be collected from the annual \$3,000 registration fee. Some major computer manufacturers are not based in the United States and are not included in this number although they will be subject to the same registration requirement. Printer manufacturers will be required to register with the State and pay the fee beginning in 2011. The fee will sunset on October 1, 2015. A maximum Fund balance of \$600,000 is established. If the maximum is reached, then fees will not be assessed on manufacturers for the following fiscal year.

Beginning in 2010, recyclers of covered electronic devices will be required to register with the DEQ and pay an annual \$2,000 registration fee. The revenue collected will depend on the number of recyclers. The fee will sunset on October 1, 2015.

An indeterminate amount of revenue will be generated from violations of Part 173. Money collected from civil fines for violations will be deposited into the Electronic Waste Recycling Fund. Criminal fine revenue will benefit public libraries.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.