

**Representative Rebecca P. Edwards** proposes the following substitute bill:

**RECYCLING OF ELECTRONIC ITEMS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rebecca P. Edwards**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses the recycling of consumer electronic devices.

**Highlighted Provisions:**

This bill:

- ▶ establishes the Consumer Electronic Recycling Program within the Division of Solid and Hazardous Waste;
- ▶ defines terms;
- ▶ addresses duties of the division, including rulemaking;
- ▶ requires the division to maintain publicly available lists of manufacturers, registered recyclers, and recycling drop-off points;
- ▶ provides for the establishment of recycling drop-off points;
- ▶ imposes duties on manufacturers and registered recyclers;
- ▶ requires registration;
- ▶ addresses the payment of recycling costs for consumer electronic devices;
- ▶ includes a sunset provision; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **19-1-105**, as enacted by Laws of Utah 1991, Chapter 112

31 **63I-1-219**, as last amended by Laws of Utah 2009, Chapter 334

32 ENACTS:

33 **19-6-1201**, Utah Code Annotated 1953

34 **19-6-1202**, Utah Code Annotated 1953

35 **19-6-1203**, Utah Code Annotated 1953

36 **19-6-1204**, Utah Code Annotated 1953

37 **19-6-1205**, Utah Code Annotated 1953

38 **19-6-1206**, Utah Code Annotated 1953

39 **19-6-1207**, Utah Code Annotated 1953



41 *Be it enacted by the Legislature of the state of Utah:*

42 Section 1. Section **19-1-105** is amended to read:

43 **19-1-105. Divisions of department -- Control by division directors.**

44 (1) The following divisions are created within the department:

45 (a) the Division of Air Quality, to administer Title 19, Chapter 2, Air Conservation  
46 Act;

47 (b) the Division of Drinking Water, to administer Title 19, Chapter 4, Safe Drinking  
48 Water Act;

49 (c) the Division of Environmental Response and Remediation, to administer Title 19,  
50 Chapter 6, Parts 3, Hazardous Substances Mitigation Act, and 4, Underground Storage Tank  
51 Act;

52 (d) the Division of Radiation, to administer Title 19, Chapter 3, Radiation Control Act;

53 (e) the Division of Solid and Hazardous Waste, to administer Title 19, Chapter 6, Parts  
54 1, Solid and Hazardous Waste Act, 2, Hazardous Waste Facility Siting Act, [and] 5, Solid  
55 Waste Management Act, and 12, Consumer Electronic Recycling Programs; and

56 (f) the Division of Water Quality, to administer Title 19, Chapter 5, Water Quality Act.

57 (2) Each division is under the immediate direction and control of a division director  
58 appointed by the executive director.

59 (3) Each division director shall:

60 (a) possess the necessary administrative skills and training to adequately qualify [him]  
61 the division director for [his] the position[. He shall]; and

62 (b) have graduated from an accredited college or university with:

63 [~~(a)~~] (i) a four-year degree in physical or biological science or engineering;

64 [~~(b)~~] (ii) a related degree; or

65 [~~(c)~~] (iii) a degree in law.

66 (4) Each director may be removed at the will of the executive director.

67 Section 2. Section 19-6-1201 is enacted to read:

68 **Part 12. Consumer Electronic Recycling Program**

69 **19-6-1201. Title.**

70 This part is known as the "Consumer Electronic Recycling Program."

71 Section 3. Section 19-6-1202 is enacted to read:

72 **19-6-1202. Definitions.**

73 As used in this part:

74 (1) (a) "Consumer" means a person who possesses a consumer electronic device for the  
75 person's own personal or home-based business use.

76 (b) "Consumer" does not include a person who possesses a consumer electronic device

77 for:

78 (i) a business that is not a home-based business; or

79 (ii) another purpose that does not constitute personal use.

80 (2) (a) "Consumer electronic device" means an electronic device for consumer use if

81 that electronic device is:

82 (i) a computer central processing unit;

83 (ii) a personal ~~H~~→ [computing device] computer ←~~H~~ with a screen size greater than four

83a inches at a

84 diagonal;

85 (iii) a computer peripheral, including a mouse, keyboard, printer, scanner, or copier;

86 (iv) a computer monitor;

87 (v) a television; or

88 (vi) a desktop device that prints, scans, or copies.

89 (b) "Consumer electronic device" does not include:

90 (i) an electronic device that is not used primarily for consumer use, including a  
91 business electronic device;

92 (ii) a personal audio or video device with a screen size of less than four inches at a  
93 diagonal;

94 (iii) a mobile telephone, regardless of whether it contains a computer or computer-like  
95 central processing unit;

96 (iv) the internal components of a consumer electronic device, standing alone; or

97 (v) a device excluded by rule made by the division.

98 (3) "Designated recycling drop-off point" means a recycling drop-off point designated  
99 under Section 19-6-1204.

100 (4) "Division" means the Division of Solid and Hazardous Waste, created in Section  
101 19-1-105.

102 (5) (a) "Manufacturer" means a person who:

103 (i) manufactures a consumer electronic device, whether in whole or by assembly of  
104 other components;

105 (ii) owns, licenses, or resells the brand of a consumer electronic device;

106 (iii) imports a consumer electronic device into the United States for sale in the state; or

107 (iv) sells at retail in the state a consumer electronic device acquired from a person who  
108 is a manufacturer and elects to register as the manufacturer of that consumer electronic device  
109 in lieu of the other manufacturer.

110 (b) "Manufacturer" does not include a person who:

111 (i) manufactures the internal components of a consumer electronic device; or

112 (ii) assembles a computer system from components for the person's own use.

113 (c) "Manufacturer" for a consumer electronic device for which more than one person is  
114 a manufacturer, means:

115 (i) the manufacturer who elects to register in lieu of another in accordance with  
116 Subsection (5)(a)(iv); or

117 (ii) the person who owns the brand of the consumer electronic device, if no  
118 manufacturer elects to register in lieu of another manufacturer.

119 (6) "Market share," with respect to a specific manufacturer, means the portion of the  
120 total sales in the state of a type of consumer electronic device that are attributable to the  
121 manufacturer.

122 (7) "Orphan device" means a consumer electronic device the manufacturer of which:

123 (a) cannot be determined; or

124 (b) no longer exists.

125 (8) (a) "Recycling" means disassembling, dismantling, processing, or shredding a  
126 consumer electronic device to recover a useable product.

127 (b) "Recycling" does not include incineration.

128 (9) "Registered recycler" means a person who recycles consumer electronic devices  
129 who registers with the division as a registered recycler in accordance with Section 19-6-1206.

130 (10) "Type," with respect to a consumer electronic device, means one of the following:

131 (a) a television or computer monitor;

132 (b) a computer;

133 (c) a computer peripheral, except for a computer monitor; or

134 (d) a consumer electronic device that is not described in Subsections (10)(a) through

135 (c).

136 Section 4. Section **19-6-1203** is enacted to read:

137 **19-6-1203. Consumer Electronic Recycling Program -- Division duties.**

138 (1) There is established the "Consumer Electronic Recycling Program" within the  
139 Division of Solid and Hazardous Waste.

140 (2) The division shall:

141 (a) maintain and make publicly available on its Internet website a current list of:

142 (i) manufacturers registered under this part;

143 (ii) registered recyclers; and

144 (iii) designated recycling drop-off points; and

145 (b) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
146 Rulemaking Act, establishing:

147 (i) requirements for security and destruction of data remaining on a consumer  
148 electronic device recycled in accordance with this part;

149 (ii) environmental and handling requirements for the recycling of consumer electronic

150 devices by a registered recycler;

151 (iii) liability insurance requirements for a registered recycler on the basis of the  
 152 potential liability of the registered recycler for damages in connection with the recycling of a  
 153 consumer electronic device; and

154 (v) subject to Subsection (3), an administrative penalty for a violation of this chapter.

155 (3) Subject to Title 63G, Chapter 4, Administrative Procedures Act, the division may  
 156 impose an administrative penalty against a registered recycler or manufacturer for a violation of  
 157 this chapter that is established by rule, and which may include:

158 (a) suspension or revocation of a registration;

159 (b) a cease and desist order; or

160 (c) a fine ~~H~~→ **not to exceed 200% of the applicable registration fee, for the failure to**  
 160a **register or to pay a registered recycler in accordance with this chapter** ←~~H~~ .

161 Section 5. Section **19-6-1204** is enacted to read:

162 **19-6-1204. Designated drop-off points.**

163 (1) (a) A county of the first-class shall designate at least one recycling drop-off point  
 164 within the county where a consumer may drop off a consumer electronic device for no charge  
 165 to the consumer.

166 (b) In designating a recycling drop-off point under this Subsection (1), a county may  
 167 consult a local health department or solid waste district within the county.

168 (2) A county that is not a county of the first-class may designate one or more recycling  
 169 drop-off points within the county where a consumer may drop off a consumer electronic device  
 170 for no charge to the consumer.

171 (3) A manufacturer may designate one or more recycling drop-off points within the  
 172 state where a consumer may drop off a consumer electronic device for no charge to the  
 173 consumer.

174 Section 6. Section **19-6-1205** is enacted to read:

175 **19-6-1205. Registration by manufacturer -- Duties.**

176 (1) On and after July 1, 2010, a manufacturer of a consumer electronic device that is  
 177 sold to a consumer within the state shall register with the division.

178 (2) To register with the division, a manufacturer shall:

179 (a) file an application with the division that includes:

180 (i) the manufacturer's current address; and

181 (ii) a list of the brands of consumer electronic devices that the manufacturer  
 182 manufactures that are sold in the state; and

183 (b) pay an annual fee established by the division in accordance with Section 63J-1-504,  
 184 except that a fee shall vary in amount on the basis of a manufacturer's market share.

185 (3) A manufacturer shall:

186 (a) if the address provided to the division under Subsection (2) changes, notify the  
 187 division of the new address within 10 days of the day on which the address changes; and

188 (b) satisfy a valid request for payment from a registered recycler within 45 days after  
 189 receipt of the request for payment.

190 Section 7. Section **19-6-1206** is enacted to read:

191 **19-6-1206. Recycler registration -- Duties.**

192 (1) A person seeking to be a registered recycler under this part shall register with the  
 193 division.

194 (2) To register with the division, a person shall:

195 (a) file an application with the division; and

196 (b) pay an annual fee established by the division in accordance with Section 63J-1-504,  
 197 except that ~~H~~ :

197a (i) ~~H~~ a fee shall vary in amount on the basis of a registered recycler's market share ~~H~~ [;]  
 197b ; and

197c (ii) total fees assessed by the division may not exceed \$50,000 for the period beginning  
 197d on July 1, 2010 and ending on June 30, 2011. ~~H~~

198 (3) A registered recycler shall:

199 (a) for a consumer electronic device recycled in accordance with this part, comply with  
 200 the rules made by the division in accordance with Section 19-6-1203 concerning:

201 (i) maintaining the security and destruction of data remaining on the consumer  
 202 electronic device; and

203 (ii) environmental and handling requirements;

204 (b) transport a consumer electronic device from a designated recycling drop-off point  
 205 for recycling;

206 (c) submit a request for payment to a manufacturer only in accordance with this part  
 207 and division rules made in accordance with Section 19-6-1203 governing the submission of  
 208 requests for payment;

209 (d) maintain a record of an orphan device; and

210 (e) maintain liability insurance at a level established by the division by rule made in  
 211 accordance with Section 19-6-1203.

212 Section 8. Section **19-6-1207** is enacted to read:

213 **19-6-1207. Costs of recycling under the program.**

214 (1) A manufacturer of a consumer electronic device recycled in accordance with this  
215 part shall pay for a registered recycler's cost of recycling the consumer electronic device as  
216 negotiated by the manufacturer and the registered recycler, regardless of whether the  
217 manufacturer is registered in accordance with this part.

218 (2) The cost of recycling paid by a manufacturer under Subsection (1) shall be  
219 determined by applying the negotiated rate to the manufacturer's portion of the market share for  
220 the type of consumer electronic device at issue.

221 (3) A registered recycler shall:

222 (a) include in the cost to the manufacturer the total amount of material recycled by the  
223 registered recycler; and

224 (b) submit a request for payment to each manufacturer by the manufacturer's market  
225 share.

226 Section 9. Section **63I-1-219** is amended to read:

227 **63I-1-219. Repeal dates, Title 19.**

228 (1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2014.

229 (2) Title 19, Chapter 3, Radiation Control Act, is repealed July 1, 2012.

230 (3) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2019.

231 (4) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2019.

232 (5) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1,  
233 2019.

234 (6) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July  
235 1, 2010.

236 (7) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1,  
237 2018.

238 (8) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2016.

239 (9) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2019.

240 (10) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2010.

241 (11) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1,  
242 2012.



243            (12) Title 19, Chapter 6, Part 12, Consumer Electronic Recycling Program, is repealed  
244   July 1, 2020.

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**H.B. 153 1st Sub. (Buff) - Recycling of Electronic Items**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Provisions of this bill requires manufactures and consumer electronic device recyclers to register with the Solid and Hazardous Waste Division of the Department of Environmental Quality. It is estimated that 80 manufactures and recyclers would register at an average cost of \$3,000 the first year for a total of \$240,000 in FY 2011. Revenues for subsequent years are dependent on renewal fees. The amount is not yet determined but would likely be less than the original collections. The estimated ongoing cost to implement and administer provisions of this bill is \$223,000 from the General Fund.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
General Fund	\$0	\$223,000	\$223,000	\$0	\$0	\$0
Dedicated Credits	\$0	\$0	\$0	\$0	\$240,000	\$0
<b>Total</b>	<b>\$0</b>	<b>\$223,000</b>	<b>\$223,000</b>	<b>\$0</b>	<b>\$240,000</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. Individuals and businesses are likely to experience increased costs to off set the expense of recycling of electronic devices.