

ACT

Alliance for a Clean Texas

Electronic Waste & Recycling: Build Upon the Foundation of the Computer TakeBack Law

Introduction: Texas Computer TakeBack Law Puts Texas on Record for Producer TakeBack Recycling

On September 1, 2008, the Texas Computer TakeBack Law (HB 2714) went into effect. The law is supposed to provide consumers and home-based businesspeople with free, convenient and environmentally responsible recycling for computer monitor, desktop and laptops computers. The rules to implement the program expanded the scope to include keyboards and mice, if those items are of the same brand as the computer or monitor.

This law is the first producer takeback recycling law to be passed by the State of Texas and sets an important precedent for making manufacturers responsible for the end of life of their products. This gives producers a bottom line incentive to design for the environment because they will be competing on the basis of how efficiently they can recycle their products, in addition to efficiently manufacturing and marketing them. Producer takeback recycling also removes the financial burden from local governments who run solid waste and household hazardous waste programs that, in essence, subsidize the true costs of disposable, toxic products.

Because the computer takeback law is the first one passed in Texas, it is vital that the law work well if it is to be seen as a model for other products. TCE believes that there are many areas for improvement and that some of these are achievable in 2009 and others will need groundwork laid for later success.

Next Steps on Electronic Waste TakeBack Recycling

The Texas law and its implementation rules are only a starting point because key elements are missing or too weak. Here are some of the areas that we are looking at to strengthen the Texas Computer TakeBack Law.

1. Expand the Scope of Products Beyond Computers and Monitors

The Legislature did not include TVs in the bill in 2007, because according to HB 2714 author and House Environmental Regulation Committee Chairman Dennis Bonnen, the TV companies did not ask to be included as Dell and HP did as major computer makers. However, Chairman Bonnen said he would address TVs in 2009 whether or not the TV companies requested it. (Most of the 16 state laws do cover TVs.) Since the end of the 2007 legislative session, three major TV makers have begun offering producer takeback recycling: Sony, LG (which also owns Zenith and GoldStar), and Samsung.

2009 ACT Recommendation: Amend Texas Computer TakeBack Law to include televisions.

During the HB 2714 rule-making process, the TCEQ required that if consumers returned a computer and monitor, the producer would also be responsible for mice and keyboards of that same brand. However, the producers of mice and keyboards are not responsible for taking back their products if they don't make computers or monitors.

2009 ACT Recommendation: Amend Texas Computer TakeBack Law to include all keyboards and mice

2. Protect Local Governments from the Costs

Local governments are generally seen as the recyclers of first resort in our current solid waste management/resource recovery "system" for household discards. According to E-Scrap News, 22 local governments in Texas have operated e-waste collection programs for their residents. HB 2714 did not acknowledge this infrastructure.

The implementing rules at least included local governments in the list of potential partners for producers. Since producers are given the responsibility to come up with plans that fit their business model, it has been difficult to come up with the best approach.

2009 ACT Recommendation: Amend the Texas Computer TakeBack Law to require that producers take responsibility for any covered electronic products that come from local government household collection programs.

3. Expand Who Gets Free Recycling Beyond Households and Home-based Businesses

HB 2714 only covers electronics owned by households and home-based businesses. A number of other states include other consumers of electronics such as school districts, non-profits, small businesses and small local governments.

2009 ACT Recommendation: Amend the Computer TakeBack Law to cover more types of electronics owners.

4. Responsible Recycling: Disposal Ban on Landfilling or Incinerating E-Waste

Currently, Texas households can throw e-waste in the trash for landfilling or burning. A number of states have banned this practice and these bans have proven to be a strong driver for recycling.¹ Texas does ban car batteries, used oil filters and whole tires from landfills. Landfill bans have been a strong driver for recycling, even in states such as Massachusetts that have yet to put a statewide e-waste recycling program in place.

2009 ACT Recommendation: Amend the Texas Computer TakeBack Law to ban the landfilling and incineration of hazardous electronic waste.

¹ Arkansas, California, Maine, Massachusetts, Minnesota, New Hampshire, New Jersey, North Carolina, Oregon, Rhode Island and the City of New York.

5. Responsible Recycling: Require Disclosure on any E-waste Export to Developing Countries

HB 2714 promised free, convenient and responsible recycling of computers. However, most legal experts say that state governments cannot ban the export of toxic e-waste to developing nations. TCE and others argued during the rule-making that the TCEQ should write a provision into the rules that producers provide the documentation needed by recyclers who are shipping e-waste to developing countries. Although 18 state legislators joined TCE in calling for this disclosure, the TCEQ failed to act on the suggestion.

***2009 ACT Recommendation:* Amend the Texas Computer TakeBack Law to require that when producers submit their annual reports (starting in January 2010), that they submit the paperwork documenting that any export of hazardous electronic waste to developing countries was done in accordance with international law.**

6. Build in More Accountability for Robust and Convenient Producer TakeBack Programs

The 2007 law required that producers submit reports to the state annually starting in January 2010. The TCEQ will then submit a report to the legislature in March annually. However, the rules to implement the law allow the companies to submit reports that do not break out how much of what is collected is recycled vs. reused vs. disposed of. In addition, other states encourage other stakeholders such as local governments to provide feedback on how the producer takeback system is functioning.

***2009 ACT Recommendation:* Require the producers to break out how much they have collected, reused, recycled or disposed of. Require the producers or TCEQ to include benchmarks numbers such as the sales figures for 7 years earlier (the average life of computer used by a household, used by Dell and others as a benchmark). Require the TCEQ to provide comparisons with other e-waste programs. Provide feedback mechanisms for local governments and Texas residents to comment on the program and require the TCEQ to include information on the comments and complaints received.**

7. Provide Adequate Funding for Public Education and Other Costs to the State of Texas

Unlike most other state laws, there were absolutely no fees required of the computer producers to assist the state in implementing the law, aside from fines if producers or retailers do not comply. The state has the responsibility for public education, but has no funds to conduct public education campaigns. Ideally, a benchmark survey of public awareness of the program should have been conducted and a strategic and effective public education campaign should be developed. However, the TCEQ has not allocated any of its own funding for this purpose, nor taken the initiative to get stakeholders to put up resources to make this happen.

***2009 ACT Recommendation:* Amend the Computer TakeBack Law to assess a sliding scale fee on producers to cover public education (and program administration) costs and require the TCEQ to conduct an effective education program that benchmarks public knowledge before and after the public education efforts begin.**

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