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H. R. 4316

To reduce and eliminate electronic waste through recycling.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2005

Ms. MILLENDER-MCDONALD introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To reduce and eliminate electronic waste through recycling.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Electronic Waste Recycling Promotion and Consumer Protection Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the National Safety Council estimates that—

(A) in 2003, over 60,000,000 personal computers became obsolete and between 1997 and 2007 more than 500,000,000 computers will need to be discarded; and

(B) at an average weight of 70 pounds, this will result in over 6,300,000,000 pounds of plastic and 1,600,000,000 pounds of lead added to the supply of waste needing to be managed;

(2) according to the Environmental Protection Agency—

(A) a computer monitor or television set generally contains 4 to 8 pounds of lead;

(B) mercury, cadmium, and other heavy metals are generally used in such equipment as well; and

(C) households and businesses in the United States often do not discard older computers and televisions when buying newer versions of the same products;

(3) according to experts, the average household may have between 2 and 3 older computers and televisions in storage, and approximately 20,000,000 to 24,000,000 computers and televisions are placed in storage each year;

(4) according to the Environmental Protection Agency, discarded computer, television, and other electronic equipment—

(A) when not discarded in large quantities, is currently managed in most States as municipal solid waste, just like ordinary trash; and

(B) constitute 40 percent of the lead and 70 percent of the heavy metals that are found in landfills and, if not handled properly, can be released into the environment, contaminating air and groundwater and posing a significant threat to human health, including potential damage to kidney, brain, and nervous system function, and cancer in cases of excessive exposure;

(5) materials used in computers, televisions, and similar electronic products can be recovered through recycling, which conserves resources and minimizes the potentially harmful human and environmental health effects of those materials; and

(6) establishing a nationwide infrastructure for electronic waste recycling will—

(A) facilitate access of people in the United States to recycling services; and

(B) improve the efficiency and use of electronic waste recycling.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) CATHODE RAY TUBE.—The term ''cathode ray tube'' means a vacuum tube used to convert an electronic signal into a visual image, for use in a computer monitor, television, or other piece of electronic equipment.

(3) COMPUTER.—

(A) IN GENERAL.—The term ''computer'' means an electronic, magnetic, optical, electrochemical, or other high speed data processing device that performs logical, arithmetic, or storage functions.

(B) EXCLUSIONS.—The term ''computer'' does not include an automated typewriter or typesetter, video game console, portable hand held calculator, personal digital assistant, cellular telephone, or other similar device.

(4) CONSUMER.—The term ''consumer'' means—

(A) an occupant of a single, detached dwelling unit or a single unit of a multiple dwelling unit who—

(i) has used a computer monitor, a television, or another piece of electronic equipment that contains a display screen or a system unit; and

(ii) used the equipment described in clause (i) at the dwelling unit of the occupant; and

(B) a commercial, educational, or other entity that discarded for recycling not more than 20 display screens or system units per year during the previous 5 years.

(5) DISPLAY SCREEN.—

(A) IN GENERAL.—The term ''display screen'' means a cathode ray tube, flat panel screen, or other similar video display device with a screen size of greater than 4 inches, measured diagonally.

(B) EXCLUSION.—The term ''display screen'' does not include commercial or industrial equipment, or household appliances, that contain—

(i) a cathode ray tube;

(ii) a flat panel screen; or

(iii) another similar video device.

(6) HAZARDOUS WASTE.—The term ''hazardous waste'' has the meaning given the term in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(7) RECYCLE.—The term ''recycle'' means the performance of a process by 1 or more persons by which a display screen or a system unit is—

(A) sorted;

(B) if necessary, transported;

(C) to the maximum extent practicable, separated to recover any component or commodity inside the display screen or system unit that can be reduced to raw materials or products; and

(D) treated such that any remaining material is disposed of properly and in an environmentally sound manner consistent with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(8) SYSTEM UNIT.—The term ''system unit'' means—

(A) the casing or portion of a computer that contains the central processing unit, which

performs the primary quantity of data processing; and

(B) the unit that, together with the memory, forms the central part of the computer, to which peripheral devices may be attached.

(9) UNIVERSAL WASTE.—The term ''universal waste'' has the meaning given the term in the Environmental Protection Agency Standards of Universal Waste Management established under section 273 of title 40, Code of Federal Regulations (and successor regulations).

SEC. 4. CREDIT FOR RECYCLING ELECTRONIC WASTE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45N. CREDIT FOR RECYCLING ELECTRONIC WASTE.

''(a) ALLOWANCE OF CREDIT.—For purposes of section 38, in the case of an eligible taxpayer, the electronic waste recycling credit for any taxable year is an amount equal to $8 per unit of qualified electronic waste that is collected from consumers and recycled during the taxable year.

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means any person which—

"(1) collects from consumers and recycles, or arranges for the recycling of, not less than 5,000 units of qualified electronic waste during that person's taxable year,

"(2) submits with the person's tax return documentation of the final destination of all units of electronic waste collected from consumers during the person's taxable year for the purpose of recycling, and

"(3) certifies that all reclamation and recycling carried out by the person was performed by an eligible recycler.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ELECTRONIC WASTE.—The term 'qualified electronic waste' means any display screen or any system unit.

"(2) CONSUMER, DISPLAY SCREEN; RECYCLE; SYSTEM UNIT.—The terms 'consumer', 'display screen', 'recycle', and 'system unit' have the meaning given the terms by section 3 of the Electronic Waste Recycling Promotion and Consumer Protection Act.

"(d) FINAL REGULATIONS.—

"(1) IN GENERAL.—Not later than the date which is 180 days after the date of the enactment of this section, the Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall issue such final regulations as may be necessary and appropriate to carry out this section.

"(2) INCLUSION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the regulations issued under paragraph (1) shall include—

"(i) requirements for certifying recyclers as eligible to recycle qualified electronic waste,

"(ii) requirements to ensure that all recycling of qualified electronic waste is performed in a manner that is safe and environmentally sound, and

"(iii) a provision which allows a tax credit under this section to be shared by 2 or more eligible taxpayers, provided that the total tax credit for a unit of electronic waste under this section does not exceed $8.

"(B) LIMITATION.—The Secretary shall not certify a recycler as eligible under this subsection unless the recycler is—

"(i) a taxpayer, or

"(ii) a State or local government.

"(e) TERMINATION.—This section shall not apply with respect to any unit of qualified electronic waste which is recycled after the date which is 3 years after the date on which the final regulations issued pursuant to subsection (d) take effect.".

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code is amended by striking "plus" at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting ", plus", and by adding at the end the following new paragraph:

"(27) in the case of an eligible taxpayer (as defined in section 45N(b)), the electronic waste recycling credit determined under section 45N(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45N. Credit for recycling electronic waste.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to display screens and

system units recycled after the date on which the final regulations issued pursuant to section 45N of such Code (as added by this section) take effect.

SEC. 5. CONSUMER CREDIT FOR RECYCLING ELECTRONIC WASTE.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25D the following new section:

"SEC. 25E. CONSUMER CREDIT FOR RECYCLING ELECTRONIC WASTE.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible consumer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $15 for the recycling of 1 or more units of qualified electronic waste.

"(b) ELIGIBLE CONSUMER.—For purposes of this section, the term 'eligible consumer' means any individual—

"(1) with respect to whom a credit under this section has not been allowed in any preceding taxable year, and

"(2) who submits with the individual's tax return such information as the Secretary requires to document that each unit of qualified electronic waste

was recycled by a recycler certified by the Secretary pursuant to subsection (d).

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ELECTRONIC WASTE.—The term 'qualified electronic waste' means any display screen or any system unit.

"(2) CONSUMER, DISPLAY SCREEN; RECYCLE; SYSTEM UNIT.—The terms 'consumer', 'display screen', 'recycle', and 'system unit' have the meaning given the terms by section 3 of the Electronic Waste Recycling Promotion and Consumer Protection Act.

"(d) FINAL REGULATIONS.—

"(1) IN GENERAL.—Not later than the date which is 180 days after the date of the enactment of this section, the Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall issue such final regulations as may be necessary and appropriate to carry out this section.

"(2) INCLUSION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the regulations issued under paragraph (1) shall include—

"(i) requirements for certifying recyclers as eligible to recycle qualified electronic waste, and

"(ii) requirements to ensure that all recycling of qualified electronic waste is performed in a manner that is safe and environmentally sound.

"(B) LIMITATION.—The Secretary shall not certify a recycler as eligible under this subsection unless the recycler is—

"(i) a taxpayer, or

"(ii) a State or local government.

"(e) TERMINATION.—This section shall not apply with respect to any unit of qualified electronic waste which is recycled after the date which is 3 years after the date on which the final regulations issued pursuant to subsection (d) take effect.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25D the following new item:

"Sec. 25E. Consumer credit for recycling electronic waste.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to display screens and system units recycled after the date on which the final

regulations issued pursuant to section 25E(d) of such Code (as added by this section) take effect.

SEC. 6. PROHIBITIONS OF DISPOSAL WITHOUT RECYCLING.

(a) DISPLAY SCREEN AND SYSTEM UNIT DISPOSAL BAN.—

(1) IN GENERAL.—Effective beginning on the date that is 3 years after the date of enactment of this Act, if the Administrator determines that a majority of households in the United States have sufficient access to a recycling service for display screens and system units, it shall be unlawful for the operator of a landfill, incinerator, or any other facility for the transfer, disposal, or storage of municipal solid waste to knowingly receive from a consumer a display screen or system unit, except for the purpose of recycling or arranging for the recycling of the display screen or system unit by a recycler certified as an eligible recycler by the Administrator.

(2) PROCEDURES.—Not later than 180 days after the date of enactment of this Act, the Administrator shall develop and issue guidelines covering waste handlers and waste transfer stations to assist in developing recycling procedures for display screens and system units.

(3) EXEMPTIONS.—As part of the guidelines issued pursuant to paragraph (2), the Administrator shall classify display screens and system units as universal waste and provide for the exemption of display screens and system units from the requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) as necessary to facilitate the collection, storage, and transportation of display screens and system units for the purpose of recycling.

(b) ENFORCEMENT.—A violation of subsection (a) by any person or entity shall be subject to enforcement under applicable provisions of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

SEC. 7. RECYCLING OF DISPLAY SCREENS AND SYSTEM UNITS PROCURED BY THE FEDERAL GOVERNMENT.

(a) DEFINITION OF EXECUTIVE AGENCY.—In this section, the term ''executive agency'' has the meaning given the term in section 11101 of title 40, United States Code.

(b) REQUIREMENT FOR RECYCLING.—The head of each executive agency shall ensure that each display screen and system unit procured by the Federal Government—

(1) is recovered upon the termination of the need of the Federal Government for the display screen or system unit; and

(2) is recycled by a recycler certified as an eligible recycler by the Administrator through—

(A) a program established after the date of enactment of this Act by the executive agency, either alone or in conjunction with 1 or more other executive agencies; or

(B) any other program for recycling or reusing display screens and system units.

SEC. 8. NATIONWIDE RECYCLING PROGRAM.

(a) STUDY.—

(1) IN GENERAL.—The Administrator, in consultation with appropriate executive agencies (as determined by the Administrator), shall conduct a study of the feasibility of establishing a nationwide recycling program for electronic waste that preempts any State recycling program.

(2) INCLUSIONS.—The study shall include an analysis of multiple programs, including programs involving—

(A) the collection of an advanced recycling fee;

(B) the collection of an end-of-life fee;

(C) producers of electronics assuming the responsibility and the cost of recycling electronic waste; and

(D) the extension of a tax credit for recycling electronic waste.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report describing—

(1) the results of the study conducted under subsection (a);

(2) 1 or more prospective nationwide recycling programs, including—

(A) a cost-benefit analysis of each program, including—

(i) the cost of the program to—

(I) consumers;

(II) manufacturers;

(III) retailers; and

(IV) recyclers; and

(ii) the estimated overhead and administrative expenses of carrying out and monitoring the program; and

(B) the quantity of display screens and system units projected to be recycled under the program;

(3)(A) the benefits of establishing a nationwide take-back provision that would require, as part of the program, all manufacturers of display screens or system units for sale in the United States to collect and recycle, or arrange for the recycling of, display screens and system units; and

(B) a projection of the quantity of display screens and system units that would be recycled annually under a nationwide take-back provision;

(4)(A) any emerging electronic waste streams, such as—

(i) cellular telephones; and

(ii) personal digital assistants; and

(B) a cost-benefit analysis of including an emerging electronic waste stream in a national recycling program; and

(5) the progress of the Administrator in carrying out section 6, including—

(A) information on enforcement of the prohibition; and

(B) any increase in recycling as a result of the prohibition.

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