

OCT 24 1972

SENATE
S. No. 1877

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 2, Section 16 provides that:

The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

Electronic waste or e-waste is of concern largely due to the toxicity and carcinogenicity of some of the substances if processed improperly. Toxic substances in electronic waste may include lead, mercury, cadmium. Carcinogenic substances in electronic waste may include polychlorinated biphenyls (PCBs). A typical computer monitor may contain more than 6% lead by weight, much of which is in the lead glass of the CRT. Capacitors, transformers, PVC insulated wires, PVC coated components that were manufactured before 1977 often contain dangerous amounts of polychlorinated biphenyls. Up to thirty-eight separate chemical elements are incorporated into electronic waste items. The unsustainability of discarding electronics and computer technology is another reason for the need to recycle - or perhaps more practically, reuse - electronic waste.

If treated properly, electronic waste is a valuable source for secondary raw materials. However, if not treated properly, it is a major source of toxins and carcinogens. Rapid technology change, low initial cost and even planned obsolescence have resulted in a fast growing problem around the globe. Technical solutions are available but in most cases a legal framework, a collection system, logistics and other services need to be implemented before a technical solution can be applied. Electronic waste represents 2 percent of America's trash in landfills, but it equals 70 percent of overall toxic waste.

Uncontrolled burning, disassembly, and disposal are causing environmental and health problems, including occupational safety and health effects among those directly involved, due to the methods of processing the waste. Trade in electronic waste is controlled by the Basel Convention.

This bill aims to remedy the e-waste coming from used or discarded computer equipment by making the manufacturers primarily liable for recycling or disposing them.*

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

* This bill was originally filed during Fourteenth Congress, First Regular Session.

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1 AN ACT
2 REQUIRING THE MANUFACTURERS OF COMPUTERS TO PROVIDE RECOVERY
3 AND COLLECTION FACILITIES FOR THEIR PRODUCTS

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

4 SECTION 1. *Short Title.* – This Act shall be known as the “Computer Recovery and
5 Collection Act.”

6 SECTION 2. *Purpose.* – It is the purpose of this Act to protect the environment from the
7 hazards of the improper disposal of obsolete computer equipment, encourage the responsible sale
8 and disposal of computer equipment, and assist consumers in the recycling or disposal of their
9 computer equipment.

10 SECTION 3. *Definition of Terms.* – As used in this Act, the term-

11 (A) “Brand” refers to the name, symbol, logo, trademark, or other information that
12 identifies a product rather than the components of the product;

13 (B) “Computer equipment” refers to a desktop or notebook computer and includes a
14 computer monitor or other display device that does not contain a tuner;

15 (C) “Consumer” refers to an individual who uses computer equipment that is
16 primarily for personal or home business use;

17 (D) “Department” refers to the Department of Environment and Natural Resources;

18 (E) “Manufacturer” refers to a person who—

19 (1) Manufactures or manufactured computer equipment under a brand that:

20 (a) The person owns or owned; or

- 1 (b) The person is or was licensed to use, other than under a license to
2 manufacture computer equipment for delivery exclusively to or at
3 the order of the licensor;
- 4 (2) Sells or sold computer equipment manufactured by others under a brand
5 that:
- 6 (a) The person owns or owned; or
7 (b) The person is or was licensed to use, other than under a license to
8 manufacture computer equipment for delivery exclusively to or at
9 the order of the licensor;
- 10 (3) Manufactures or manufactured computer equipment without affixing a
11 brand;
- 12 (4) Manufactures or manufactured computer equipment to which the person
13 affixes or affixed a brand that:
- 14 (a) The person does not or has not owned; or
15 (b) The person is not or was not licensed to use; or
- 16 (5) Imports or imported computer equipment manufactured outside the
17 Philippines into the Philippines unless at the time of importation the
18 company or licensee that sells or sold the computer equipment to the
19 importer has or had assets or a presence in the Philippines sufficient to be
20 considered as the manufacturer;

21 (F) "Television" refers to any telecommunication system device that can receive
22 moving pictures and sound broadcast over a distance and includes a television tuner or a display
23 device peripheral to a computer in which the display device contains a television tuner.

24 SECTION 4. *Exceptions.* – This Act shall not apply to -

25 (A) A television, or any part of a moving vehicle, a personal digital assistant, or a
26 telephone;

27 (B) A consumer's lease of computer equipment or a consumer's use of computer
28 equipment under a lease agreement; or

1 (C) The sale or lease of computer equipment to an entity when the manufacturer and
2 the entity enter into a contract that effectively addresses the collection, recycling, and reuse of
3 computer equipment that has reached the end of its useful life.

4 SECTION 5. *Requirements.* –

5 (A) Before a manufacturer may offer computer equipment for sale, the manufacturer
6 shall -

- 7 (1) Adopt and implement a recovery plan;
8 (2) Submit a written copy of the recovery plan to the department; and
9 (3) Affix a permanent, readily visible label to the computer equipment with
10 the manufacturer's brand.

11 (B) The recovery plan shall enable a consumer to recycle computer equipment
12 without paying a separate fee at the time of recycling and shall include provisions for:

- 13 (1) The manufacturer's collection from a consumer of any computer
14 equipment that has reached the end of its useful life and is labeled with the
15 manufacturer's brand; and
16 (2) Recycling or reuse of computer equipment collected under the recovery
17 plan of this subsection.

18 (C) The collection of computer equipment provided under the recovery plan shall be:

- 19 (1) Reasonably convenient and available to consumers; and
20 (2) Designed to meet the collection needs of consumers.

21 SECTION 6. *Standard Collection Methods.* – The collection methods shall include a
22 system:

23 (A) By which the manufacturer or the manufacturer's designee offers the consumer
24 the option for returning computer equipment by mail at no charge to the consumer;

25 (B) Using a physical collection site that the manufacturer or the manufacturer's
26 designee keeps open and staffed and to which the consumer may return computer equipment;
27 and/or

1 (C) Using a collection event held by the manufacturer or the manufacturer's designee
2 at which the consumer may return computer equipment.

3 Collection services under this Act may use existing collection and consolidation
4 infrastructure for handling computer equipment and may include systems jointly managed by a
5 group of manufacturers, electronic recyclers and repair shops, recyclers of other commodities,
6 reuse organizations, non-profit corporations, retailers, recyclers, and other suitable operations. If
7 a manufacturer or its designee offers a mail-back system as described here, either individually or
8 by working together with a group of manufacturers or by working with others, it shall be deemed
9 to meet the convenience requirements of this section.

10 SECTION 7. *Information Requirement.* – The recovery plan shall include information for
11 the consumer on how and where to return the manufacturer's computer equipment. The
12 manufacturer:

13 (A) Shall include collection, recycling, and reuse information on the manufacturer's
14 publicly available Internet site;

15 (B) Shall provide collection, recycling, and reuse information to the Department; and

16 (C) Shall include collection, recycling, and reuse information in the packaging for or
17 in other materials that accompany the manufacturer's computer equipment when the equipment
18 is sold.

19 SECTION 8. *Reporting Requirement.* – Each manufacturer shall submit a report to the
20 Department not later than January thirty-first of each year that includes:

21 (A) The weight of computer equipment collected, recycled, and reused during the
22 preceding calendar year; and

23 (B) Documentation certifying that the collection, recycling, and reuse of computer
24 equipment during the preceding calendar year were conducted in conformity with sound
25 environmental management.

1 SECTION 9. *Compliance by More Than One Manufacturer.* – If more than one person is
2 the manufacturer of a certain brand of computer equipment, any of those persons may assume
3 responsibility for and satisfy the obligations of a manufacturer for that brand. If none of those
4 persons assumes responsibility or satisfies the obligations of a manufacturer, the Department
5 may consider any of those persons to be the responsible manufacturer for purposes of this Act.

6 SECTION 10. *Prohibition.* – A person who is a retailer of computer equipment shall not
7 sell or offer to sell new computer equipment unless the equipment is labeled with the
8 manufacturer’s label and the manufacturer is included on the Department’s list of manufacturers
9 that have recovery plans. The Department shall keep a database in its Internet site of the
10 manufacturers that are on its list of manufacturers with recovery plans.

11 SECTION 11. *Auditing and Inspection Powers.* – The Department is empowered to
12 conduct audits and inspections to determine compliance with this Act.

13 SECTION 12. *Penalties.* – The Department shall assess a penalty against a manufacturer
14 that does not label its computer equipment, or adopt, implement, or submit a recovery plan as
15 required by this Act. No penalty shall be assessed for a first violation. The penalty shall not be
16 less than Fifty Thousand Pesos (P50,000.00) but not more than One Hundred Thousand Pesos
17 (P100,000.00) for the second and each each subsequent violation.

18 SECTION 13. *Computer Recycling Fund.* – Any penalty collected under the preceding
19 section shall be credited to the “Computer Recycling Fund,” which is hereby created, and the
20 money collected from this fund shall be used for the purpose of funding the administrative
21 requirements of this Act. Any amount remaining at the end of every two years shall revert to the
22 National Treasury.

23 SECTION 14. *Recycling of Collected Equipment.* – All computer equipment collected
24 under this Act shall be recycled or reused in a manner that complies with the standards to be set

1 by the Secretary of Environment and Natural Resources provided that its cost is reasonable and it
2 is environmentally sound.

3 SECTION 15. *Implementing Rules and Regulations.* – The Secretary shall promulgate the
4 rules and regulations to implement this Act within ninety (90) days from the effectivity of this
5 Act.

6 SECTION 16. *Separability Clause.* – If any provision or part thereof is held invalid or
7 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
8 valid and subsisting.

9 SECTION 17. *Repealing Clause.* – Any law, presidential decree or issuance, executive
10 order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent
11 with the provisions of this Act is hereby repealed, modified, or amended accordingly.

12 SECTION 18. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
13 publication in at least two (2) newspapers of general circulation.

Approved,