

Legislation Text

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Enacting a new Chapter 9-3300 of The Philadelphia Code, entitled “Electronic Equipment Collection, Recycling and Reuse” to establish an electronics recycling system that ensures the safe and environmentally sound handling, recycling, or reuse of electronic waste, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. A new Chapter 9-3300 of The Philadelphia Code, entitled “Electronic Equipment Collection, Recycling and Reuse,” is hereby enacted, to read as follows:

CHAPTER 9-3300. ELECTRONIC EQUIPMENT COLLECTION, RECYCLING AND REUSE.

§9-3301. This local ordinance shall be known and may be cited as the “Electronic Equipment Collection, Recycling and Reuse Ordinance”.

§9-3302. Definitions.

As used in this chapter:

(a) “Brand name” means a manufacturer's name, brand designation, make or model name or number, or other nomenclature by which covered electronic equipment is offered for sale by a manufacturer.

(b) “Cathode ray tube” means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

(c) “Computer” means an electronic, magnetic, optical, electrochemical or other high-speed data processing device performing a logical, arithmetic or storage function, and may include both a computer central processing unit and a monitor; but such term shall not include an automated typewriter or typesetter, a portable hand-held calculator, a portable digital assistant, or other similar device.

(d) “Covered electronic equipment” means any computer central processing unit; cathode ray tube; cathode ray tube device; keyboard; electronic mouse or similar pointing device; television; printer; computer monitor, including but not limited to a liquid crystal display and plasma screens, or similar video display device that includes a screen that is greater than four inches measured diagonally and one or more circuit boards; a laptop or other portable computer; or a portable digital music player that has memory capability and is battery-powered. “Covered electronic equipment” does not include any automobile; mobile phone; household appliances such as clothes washers, clothes dryers, refrigerators, freezers, microwave ovens, ovens, ranges or dishwashers; equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, research and development or commercial setting; security, anti-terrorism or medical equipment that utilizes a cathode ray tube, a cathode ray tube device or a flat panel display or similar video display device that is not separate from the larger piece of equipment; or any other device, as that term is defined in Title 21 Section 321 of the United States Code.

(e) *“Department” means the department or departments designated by the Mayor to administer the provisions of this Chapter.*

(f) *“Electronic recycler” means a person who:*

(.1) refurbishes or otherwise processes covered electronic equipment for reuse or resale;

or

(.2) removes, segregates or otherwise extracts components or commodities from covered electronic equipment, either by manual or mechanical separation or by changing such equipment’s physical or chemical composition, for the purpose of reusing or recycling such components or commodities.

(g) *“Label” means information, as required by this Chapter, on the surface of covered electronic equipment, which must be permanently attached to, printed or engraved on or incorporated in any other permanent manner on such equipment, and obvious and visible to users of such equipment.*

(h) *“Manufacturer” means a person who:*

(.1) assembles or substantially assembles, or has assembled or substantially assembled, covered electronic equipment for sale in the city;

(.2) manufactures or has manufactured covered electronic equipment under its own brand name or under any other brand name for sale in the city;

(.3) sells or has sold, under its own brand name, covered electronic equipment produced by another person for sale in the city;

(.4) owns a brand name that it licenses or has licensed to another person for use on covered electronic equipment sold in the city;

(.5) imports or has imported covered electronic equipment for sale in the city; or

(.6) manufactures or has manufactured covered electronic equipment for sale in the city without affixing a brand name.

(i) *“Monitor” means a separate visual display component of a computer, whether sold separately or with a central processing unit and includes the cathode ray tube, liquid crystal display, or other image projection technology, and its case, interior wires and circuitry, all exterior and interior cables, and power cord.*

(j) *“Orphan waste” means covered electronic equipment, the manufacturer of which cannot be identified or is no longer in business and for which no successor-in-interest has been identified.*

(k) *“Person” means any individual, business entity, partnership, company, corporation, not-for-profit corporation, association, governmental entity, public benefit corporation, public authority, or firm.*

(l) *“Recycle” means to use the materials contained in covered electronic equipment or components thereof as raw materials for new products or components, but not for energy recovery or energy generation by means of combustion, gasification, pyrolysis or other means.*

(m) "Reuse" means any operation by which covered electronic equipment or components thereof are used for the same purpose for which they were conceived.

(n) "Sell" or "sale" means any transfer for consideration, by lease or sales contract of title to or the right to use covered electronic equipment from a manufacturer or retailer to any person, including, but not limited to, transactions conducted through retail sales outlets, catalogs, or the internet; "sell" or "sale" includes transfer of new, used or refurbished covered electronic equipment, but does not include transfers between end users of such equipment.

(o) "Television" means a display system containing a cathode ray tube or any other type of display primarily intended to receive broadcast video programming, having a viewable area greater than four inches when measured diagonally.

§9-3303. Responsibility of Manufacturer Collection.

(a) Beginning January 1, 2010 or one hundred eighty (180) days after a manufacturer's electronic waste management plan is approved by the department, whichever date is later, such manufacturer must accept for collection, handling and recycling or reuse covered electronic equipment that is offered for return by any person in the city, and has been assembled, manufactured, or imported by such manufacturer, or has been sold under such manufacturer's brand name.

(b) Beginning January 1, 2010 or one hundred eighty (180) days after a manufacturer's electronic waste management plan is approved by the department, whichever date is later, such manufacturer must accept for collection, handling and recycling or reuse on a one-to-one basis with the purchase of the same type of covered electronic equipment other than orphan waste that is offered for return by any person in the city, and has been assembled, manufactured or imported by persons other than such manufacturer, or has been sold under the brand name of a person other than such manufacturer.

(c) Beginning January 1, 2010 or one hundred eighty (180) days after a manufacturer's electronic waste management plan is approved by the department, whichever date is later, and ending on December 31, 2011, such manufacturer must accept for collection, handling, and recycling or reuse orphan waste that is offered for return by any person in the city on a one-to-one basis with the purchase of the same type of product by such person.

(d) Beginning January 1, 2012, each manufacturer must accept for collection, handling, and recycling or reuse orphan waste of the same type sold by such manufacturer in the city that is offered for return by any person in the city.

§9-3304. Manufacturer Electronic Waste Management Plan.

(a) No later than July 1, 2009, a manufacturer shall submit to the department an electronic waste management plan for the collection, handling, and recycling or reuse of covered electronic equipment and orphan waste. Any person who becomes a manufacturer on or after July 1, 2009 shall submit to the department an electronic waste management plan for the collection, handling, and recycling or reuse of covered electronic equipment and orphan waste prior to selling any covered electronic equipment in the city.

(b) A manufacturer's submission of an electronic waste management plan pursuant to §9-3304 (a) shall be accompanied by a fee of one thousand five hundred dollars (\$1,500). A manufacturer's submission of an annual report pursuant to §9-3309(a) of this Chapter shall be accompanied by a fee of one thousand two

hundred fifty dollars (\$1,250). Any manufacturer who submits such plan or report without the requisite fee shall be deemed not to have submitted such plan or report and shall be subject to the penalties set forth in §9-3308 (d)(.1) of this Chapter for failure to submit such plan or report.

(c) The manufacturer shall not impose a fee or other charge on any person for the collection, handling, and recycling or reuse of covered electronic equipment or orphan waste, except that a fee or other charge may be imposed by contractual agreement between a manufacturer and a business entity, partnership, company, corporation or firm having more than fifty full time employees other than a not-for-profit corporation or association as defined in Section 501(c) of the Internal Revenue Code of 1954, as amended, which is exempt from taxation under Section 501(c) of that Code, governmental entity, public benefit corporation or public authority.

(d) An electronic waste management plan shall include, at a minimum:

(.1) details for the collection, handling, and recycling or reuse of covered electronic equipment and orphan waste as required by this Chapter, including but not limited to the methods by which a person can return to the manufacturer such covered electronic equipment and orphan waste. Such methods shall be convenient for residents of the city;

(.2) how the manufacturer will inform residents and businesses of the city about the manufacturer's plan for the collection, handling, and recycling or reuse of covered electronic equipment and orphan waste, which shall include an internet website and a toll-free telephone number;

(.3) information on the manufacturer's plan for the disposition of covered electronic equipment and orphan waste, including any plan for the recycling or reuse of such covered electronic equipment and orphan waste. If the manufacturer provides a plan for the recycling or reuse of covered electronic equipment and orphan waste, the manufacturer shall include details about anticipated end markets and electronic recyclers expected to be utilized by the manufacturer, including but not limited to details on the methods of collection, handling and recycling or reuse of covered electronic equipment used by such electronic recyclers, details on any disassembly or physical recovery operation to be used by such electronic recyclers, the locations of any such operations, and details on the manufacturer's compliance with applicable laws and regulations relating to the disposition, recycling or reuse of covered electronic equipment;

(.4) a description of how the manufacturer will plan to collect covered electronic equipment to the maximum extent feasible;

(.5) annual city sales data of the manufacturer's covered electronic equipment for the previous three calendar years;

(.6) the method to be used to destroy all data in any covered electronic equipment and orphan waste collected, either through physical destruction of the data storage components thereof or through data wiping meeting or exceeding United States Department of Defense standard 5220.22 M;

(.7) a list of the manufacturer's brand names, including:

(i) any brand name under which the manufacturer assembles or substantially assembles, or has assembled or substantially assembled covered electronic equipment;

(ii) any brand name under which the manufacturer manufactures and sells, or has

manufactured and sold, covered electronic equipment;

(iii) any brand name under which the manufacturer sells or has sold covered electronic equipment produced by another person under such manufacturer's own brand;

(iv) any brand name that the manufacturer owns and licenses or has licensed to another person for use on covered electronic equipment;

(v) any brand name under which the manufacturer imports or has imported covered electronic equipment for sale in the city; and

(vi) any brand name of covered electronic equipment of which the manufacturer has become the successor-in-interest;

(.8) a certification that the manufacturer's collection, handling, and recycling or reuse of covered electronic equipment complies with all local, state, federal and international laws and regulations; and

(.9) any other information as may be required by Department regulations.

(e) The Department shall approve or disapprove a proposed electronic waste management plan submitted by a manufacturer within one hundred eighty (180) days of its submission. The Department may approve a submitted electronic waste management plan that does not conform with every one of the requirements of this Chapter upon application and a showing of good cause by such manufacturer. If the Department approves an electronic waste management plan, it shall expeditiously notify the manufacturer of the approval in writing. If the Department disapproves an electronic waste management plan, it shall expeditiously notify the manufacturer in writing of the disapproval and specify the reasons for such disapproval. The manufacturer shall have thirty (30) days to resubmit a revised electronic waste management plan after the department notifies the manufacturer of its disapproval. The Department shall approve or disapprove a resubmitted electronic waste management plan within ninety (90) days of resubmission.

(f) Beginning on January 1, 2010, or one hundred eighty (180) days after an electronic waste management plan is approved by the Department, whichever date is later, a manufacturer of covered electronic equipment shall implement its approved plan for the collection, handling and recycling or reuse of covered electronic equipment and orphan waste.

(g) An electronic waste management plan may provide for the sharing of resources by one or more manufacturers, provided that such plan meets the requirements of this Section. Any electronic waste management plan providing for the sharing of resources must include a list of manufacturers participating in such plan.

(h) Proposed modifications to a previously approved manufacturer's electronic waste management plan shall be submitted to the Department which shall approve or disapprove such modification within sixty (60) days and expeditiously notify the manufacturer of its determination in writing. If the Department disapproves such modification, it shall specify the reasons for such disapproval in writing and the manufacturer shall have thirty (30) days to submit a revised modification to the Department. At any time, the Department may require submission of a proposed modification where it determines that the manufacturer is not collecting covered electronic equipment to the maximum extent feasible as required by this Chapter. The Department shall approve or disapprove such modification in accordance with this subdivision.

(i) All decisions of the Department pursuant to this Section shall be made public.

§9-3305. Performance Standards.

A manufacturer shall demonstrate whether, pursuant to its electronic waste management plan, it is collecting for recycling or reuse covered electronic equipment to the maximum extent feasible.

§9-3306. Labeling.

(a) Beginning January 1, 2010 or one hundred eighty (180) days after a manufacturer's electronic waste management plan is approved by the Department, whichever date is later, such manufacturer may not sell or otherwise distribute for sale in the city covered electronic equipment unless such equipment has a label that identifies such manufacturer.

(b) Beginning January 1, 2010 or one hundred eighty (180) days after a manufacturer's electronic waste management plan is approved by the Department, whichever date is later, such manufacturer shall provide at the point of sale information on how a person can return covered electronic equipment pursuant to such manufacturer's electronic waste management plan. Such information shall include a toll-free telephone number or internet website address describing how covered electronic equipment can be returned pursuant to the manufacturer's electronic waste management plan.

(c) Beginning January 1, 2010, the Department shall post on its web site all information provided to it from manufacturers describing how covered electronic equipment can be returned pursuant to a specific manufacturer's electronic waste management plan.

§9-3307. Disposal ban.

(a) Beginning January 1, 2011, no person shall dispose of covered electronic equipment as solid waste in the city.

(b) Beginning January 1, 2010, no manufacturer shall dispose of covered electronic equipment as solid waste in the city.

§9-3308. Enforcement.

(a) The Department shall have the authority to enforce the provisions of this Chapter. Any notice of violation charging a violation of any provision of this Chapter shall be returnable to the Department, which shall have the power to impose civil penalties as provided herein.

(b) Any person who violates the provisions of §9-3307(a) shall be liable for a civil penalty of one hundred dollars (\$100) for each violation.

(c) Any manufacturer who violates the provisions of §9-3307(b) shall be liable for a civil penalty of one thousand dollars (\$1,000) for each violation.

(d)

(.1) Beginning July 1, 2009, a manufacturer who fails to submit an electronic waste management plan or an annual report as required by this Chapter shall be liable for a civil penalty of one

thousand dollars (\$1,000) per day for each day that an electronic waste management plan or an annual report is not submitted.

(.2) Beginning July 1, 2009, a manufacturer who submits an electronic waste management plan that has been disapproved by the Department more than two times shall be liable for a civil penalty of one thousand dollars (\$1,000) per day for each day that an electronic waste management plan is not submitted and approved by the department following the date of such second disapproval.

(.3) Beginning January 1, 2011, a manufacturer who knowingly submits an annual report as required by this Chapter that contains a false or misleading statement as to a material fact or omits to state any material fact necessary in order to make a statement therein not false or misleading shall be liable for a civil penalty of two thousand dollars (\$2,000).

(.4) Beginning January 1, 2010, or one hundred eighty (180) days after a manufacturer's electronic waste management plan is approved by the Department, whichever date is later, a manufacturer who fails to accept covered electronic equipment or orphan waste offered for return by any person in the city pursuant to such manufacturer's electronic waste management plan shall be liable for a civil penalty of two thousand dollars (\$2,000) for each piece of covered electronic equipment or orphan waste not accepted.

§9-3309. Reporting Requirements.

(a) On or before January 1, 2011, and annually on or before January first thereafter, a manufacturer that offers any covered electronic equipment for sale in the city shall submit an annual report to the Department that includes the following information for the prior calendar year:

(.1) any approved modification to the manufacturer's electronic waste management plan;

(.2) sales data for the manufacturer's covered electronic equipment sold in the city;

(.3) the quantity of covered electronic equipment collected for recycling or reuse in this city, expressed both in terms of the total weight of such covered electronic equipment and as a percentage of the average annual sales of the manufacturer's covered electronic equipment in the city, reported by weight, during the previous three calendar years, and categorized by the type of covered electronic equipment collected pursuant to such manufacturer's electronic waste management plan, and further categorized, to the extent possible, by the quantity of such covered electronic equipment collected from individuals and government entities;

(.4) the weight of orphan waste collected, categorized by the type of covered electronic equipment collected, pursuant to such manufacturer's electronic waste management plan;

(.5) information on the manufacturer's compliance with the goal of collecting covered electronic equipment to the maximum extent feasible;

(.6) information on the end markets and electronic recyclers utilized by the manufacturer, including details on the methods of collection, handling and recycling or reuse of covered electronic equipment used by electronic recyclers, details on any disassembly or physical recovery operation to be used, the locations of any such operations, and details on the manufacturer's compliance with applicable laws and regulations relating to the disposition, recycling and reuse of covered electronic equipment and orphan waste;

(.7) *examples of how the manufacturer has informed residents and businesses of the city about the manufacturer's plan for the collection, handling and recycling or reuse of covered electronic equipment and orphan waste;*

(.8) *the number of visits to the internet website and calls to the toll-free telephone numbers established by the manufacturer's electronic waste management plan; and*

(.9) *any other information required by department regulations.*

(b) *The Department shall submit a report on implementation of this Chapter to the Mayor and the City Council by May 15, 2011, and yearly thereafter. The report must include, at a minimum:*

(.1) *data on the amount of electronic waste collected, categorized by manufacturer;*

(.2) *an evaluation of the recycling and reuse rates in the city for covered electronic equipment and orphan waste;*

(.3) *a discussion of compliance and enforcement related to the requirements of this Chapter; and*

(.4) *any recommendations for any changes to the system of collection, handling and recycling or reuse of covered electronic equipment and orphan waste in the city.*

§9-3310. *Confidential Information and Trade Secrets.*

Information relating to covered electronic equipment submitted to the Department pursuant to this Chapter may be designated by the Department as confidential upon a showing of good cause by the person submitting it. Except as otherwise provided by or pursuant to law or court order, such information may be used only by the Department, its agents and employees, other city agencies, and as authorized by the Mayor, employees of the United States Environmental Protection Agency or the Attorney General of the Commonwealth of Pennsylvania.

§9-3311. *Rulemaking Authority.*

The Department shall be authorized to promulgate regulations as necessary to implement the provisions of this Chapter.

SECTION 2. **Effective Date.** This Ordinance shall take effect immediately upon becoming law.