

# Legislative Analysis

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## **ELECTRONIC TAKEBACK AND RECYCLING PROGRAMS**

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**House Bill 6714 (Substitute H-1)**  
**Sponsor: Rep. Rebekah Warren**

**House Bill 6715 (Substitute H-1)**  
**Sponsor: Rep. Fred Miller**  
**Committee: Great Lakes and Environment**

**Senate Bill 897 (Substitute H-2)**  
**Sponsor: Senator Valde Garcia**

**Senate Bill 898 (Substitute H-1)**  
**Sponsor: Senator Patricia L. Birkholz**  
**Senate Committee: Natural Resources and Environmental Affairs**  
**House Committee: Great Lakes and Environment**

**Complete to 12-3-08**

## **A SUMMARY OF HOUSE BILLS 6714-6715 & SENATE Bills 896-897 AS REPORTED BY HOUSE COMMITTEE, 12-3-08**

In general, this package of bill would add a new Part 173 (Electronics) to the Natural Resources and Environmental Protection Act to require manufacturers and recyclers of covered electronic devices (covered computers and covered video display devices) to register annually with the Department of Environmental Quality (DEQ), pay annual registration fees to a new Electronic Recycling Fund, and to require manufacturers to operate takeback programs for covered devices used by individuals and small businesses. The bills are tie-barred to one another, meaning all must be enacted for any to go into effect.

Senate Bill 897 (Substitute H-2) would do the following:

- Incorporate language concerning electronic waste recycling into the objectives and declarations of Part 115 (Solid Waste Management).
- Require the manufacturers of covered electronic devices that sell more than 50 devices in Michigan to establish takeback programs by April 1, 2010 allowing consumers to return electronic devices that are no longer useful to them in a reasonably convenient manner without payment of an additional fee. Takeback programs would apply to electronic devices used by individuals and small businesses (those with 10 or fewer employees).

*Covered computers* would initially mean desktop computers, laptop computers, and computer monitors, but would expand to include printers on April 1, 2011. *Covered*

*video display devices* would include televisions and other devices with tuners and viewable screens of four inches or larger that are capable of receiving and displaying television programming via broadcast, cable, or satellite signals. Computer manufacturers would only have to take back covered computers they manufactured; video display device manufacturers would have to take back covered devices of any brand.

- Require manufacturers of covered electronic devices to register annually with the Department of Environmental Quality (DEQ) by 30 days after the close of the state fiscal year, pay an annual registration fee of \$3,000 (until October 1, 2015), and meet labeling and reporting requirements. After the first year, a manufacturer's annual registration would have to contain a report on the program's operation during the previous year.
- Require the DEQ to maintain a list of registered manufacturers on its website and to submit a report periodically on the adequacy of the program's fees.
- Beginning April 1, 2010, prohibit a manufacturer from selling new covered electronic devices in Michigan unless it is registered with the DEQ, it has implemented an appropriate takeback program, and its products meet labeling requirements.
- Beginning April 1, 2010, prohibit a retailer from purchasing new covered electronic devices from a manufacturer for sale in Michigan, unless the manufacturer is on the DEQ registration list.
- Create a 10-member Electronic Waste Advisory Council, with Senate and House co-chairs, require it submit a report evaluating specified issues by April 1, 2012, and allow it to exist until July 1, 2012.
- Create the "Electronics Recycling Fund," into which manufacturer and recycler registration fees would be deposited, to cover the DEQ's expenses of administering Part 173. If this fund contains more than \$600,000 on December 31 of any year, the DEQ could not collect registration fees from manufacturers during the next state fiscal year.
- Establish a nonbinding target recycling rate of 60 percent for covered video display devices collected.

Senate Bill 898 (Substitute H-1) would do the following:

- Require recyclers of covered electronic devices to register annually within 30 days after the close of the state fiscal year.
- Prohibit a person from recycling covered electronic devices without registering with the DEQ and paying an annual \$2,000 registration fee (until October 1, 2015).
- Require recyclers to report the total weight of covered electronic devices they recycled during the previous year and base their reports on a log.
- Require recyclers to use industry-accepted procedures substantially equivalent to U.S. Department of Defense procedures for the destruction or sanitization of data on hard drives and other data storage devices, use a management system meeting a specified standard that could be audited, and maintain specified records. (Insurance and certification requirements have been removed.)
- Prohibit recyclers from using prison labor.

- Exempt the management of covered electronic devices under Part 173 from a rule found in Part 115 that requires specific authorizations in county solid waste management plans for certain inter-county transfers of solid waste.
- Protect manufacturers, retailers, collectors, and recyclers from liability resulting from the loss or use of data or other information from a storage device of a covered electronic device collected or recycled under Part 173.

House Bill 6714 (Substitute H-1) would do the following:

- Require electronic devices collected in takeback programs to be recycled in accordance with federal, state, and local laws, including DEQ rules.
- Allow the DEQ to promulgate administrative rules consistent with specified EPA and industry guidelines.
- Require the DEQ to report to relevant legislative standing committees if a national program to collect and recycle computer equipment is established by federal law.

House Bill 6715 (Substitute H-1) would do the following:

- Require the DEQ to enforce Part 173 to the extent it receives appropriations for this purpose and allow the DEQ to inspect recycler operations.
- Prescribe civil and criminal penalties for violations of Part 173, and allow the DEQ to suspend a recycler's registration

[Possible floor amendment. At the House committee hearing on 12-3-08, Representative Howard Walker indicated that he would seek a floor amendment to have Senate Bill 898 only confer immunity from liability on companies that actually comply with stringent practices for the sanitization of data.]

## **FISCAL IMPACT:**

These bills would generate an increase in state restricted fund revenue. The actual amount collected would depend on the number of manufacturers and recyclers of household electronic devices registered to sell and operate in Michigan. Restricted fee revenue collected through this package would be deposited into a new Electronics Recycling Fund. The Department of Environmental Quality would be authorized to spend appropriations from this fund for program and other administrative costs.

The department estimates that manufacturers' annual registration fees would generate between \$225,000 and \$300,000, and the recycler fees would bring in about \$20,000. This \$245,000 to \$320,000 would provide adequate support for the department's payroll requirements for 1.5 FTE positions.

To the extent that the bills penalty provisions increased the number of misdemeanor sentences, they could increase local costs of jail incarceration or misdemeanor probation supervision, both of which vary by jurisdiction. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

## **POSITIONS:**

The Department of Environmental Quality supports the bills. (11-3-08)

AT&T indicated its support of the bills. (11-3-08)

Dell Computers testified in support of the bills. (11-3-08)

Goodwill Association of Michigan testified in support of the bills. (11-3-08)

HP (Hewlett Packard) indicated its support of the bills. (11-3-08)

The Michigan Environmental Council indicated its support of the bills. (11-3-08)

The Michigan Waste Industry Association indicated its support of the bills. (11-3-08)

The Michigan United Conservation Clubs indicated its support for the bills. (11-3-08)

Waste Management indicated its support of the bills. (11-3-08)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.