

# Creating a television recycling program

HB 821 by Leibowitz (Watson)

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## DIGEST:

HB 821 would have set up a program for the collection and recycling of television equipment for televisions sold or used by consumers in Texas. The Texas Commission on Environmental Quality (TCEQ) would have been required to adopt recycling standards based on the Electronics Recycling Operating Practices provided by the Institute of Scrap Recycling Industries or standards from a comparable nationally recognized organization.

Television manufacturers, retailers, and recyclers would have had to comply with certain requirements. For example, television manufacturers would have been required to pay a \$2,500 annual fee and register with TCEQ. Registrations and renewals would have had to include contact information and a list of all brands a manufacturer used in this state, even if the manufacturer were not licensed or did not own a particular brand. Retailers would have been prohibited from selling TVs from manufacturers that had not registered with TCEQ.

Television manufacturers would have been required to submit an annual report to TCEQ detailing the weight or amount of television equipment sold and recycled in the preceding year and a recovery plan explaining whether a manufacturer intended to collect and recycle its market share of television equipment, individually or in partnership with other manufacturers, including collection methods that would allow a consumer to recycle without paying a separate fee at the time of recycling.

Recyclers also would have been required to register annually with TCEQ and submit a report detailing the total weight of TV equipment recycled in the preceding year. The bill would have allowed TCEQ to impose a fee for recycler registration.

The TCEQ and attorney general would have been authorized to take appropriate action against those who violated the rules of the recycling program.

## GOVERNOR'S REASON FOR VETO:

“Although House Bill No. 821 attempts to make it easier for consumers to recycle old televisions, it does so at the expense of manufacturers, retailers and recyclers by imposing onerous new mandates, fees and regulations.

“House Bill No. 821 mandates that television manufacturers collect and recycle a quantity of televisions — regardless of the televisions’ original manufacturers — to be determined annually by the Texas Commission on Environmental Quality. It would also hold manufacturers responsible for recycling old televisions on the basis of their market share of new television sales, not on the basis of their past

share of manufactured televisions. Additionally, the bill imposes new fees on both manufacturers and recyclers. These requirements would generate unfair results and stifle competition.

“The program established by this bill is significantly different from a program established by House Bill No. 2714 in the 80th Legislature for the recycling of computer equipment, which has been widely successful without distorting the marketplace. House Bill No. 2714 requires computer manufacturers to develop plans providing opportunities for consumers to easily return equipment to the manufacturer for recycling. Rather than mandating a program, it provides incentives to manufacturers for accepting equipment from other companies, and specifically prohibits imposing new fees on manufacturers, retailers and recyclers.

“Texas has repeatedly proven that wise incentives can accomplish environmental progress with far greater success than burdensome mandates, fees, regulations and extensive reporting requirements.

“Before mandating programs and regulations that entail new costs to the state, consumers and Texas employers, lawmakers should look to encouraging voluntary recycling programs like those being implemented by electronics retailers across the state. I recommend that the 82nd Legislature reconsider this issue to enhance the program for television recycling without hindering competitiveness and imposing burdensome fees and regulations.”

**RESPONSE:**

**Rep. David Leibowitz**, the bill’s author, said: “More Texas televisions will end up in landfills and threaten the health and safety of our citizens because of Governor Rick Perry’s veto of HB 821. It will also mean that local governments and charities will have to continue to divert money from providing essential services to pay for the costs of television recycling. This bill was the result of a consensus between industry stakeholders, local government officials, non-profit organizations, environmental advocates and a bi-partisan group of lawmakers and it is unfortunate that the Governor’s Office, which said they were fine with the bill during session, decided after the legislative session ended that they disagreed with the bill.

“Estimates already indicate that as many as eight million TVs sit in storage in Texas and that as many as three million could make their way to landfills following the DTV switch that occurred on June 12. Old televisions typically contain between four and eight pounds of lead, most new flat screens contain mercury, and almost all electronics are coated with brominated fire retardants and other chemicals that can cause harm when landfilled or incinerated. Because of the veto, many of these TVs will end up in landfills instead of being responsibly recycled. And because many old

Texas landfills are grandfathered from modern safety standards, it is likely that these chemicals will be released into the environment.

“I disagree with the governor’s characterization of HB 821 as being very different from the computer takeback law passed in 2007 and his voicing concerns about “burdensome” requirements and fees imposed on manufacturers. In fact, HB 821 was based on the computer takeback law but reflected a market-based solution advocated by the electronics industry to reflect the unique aspects of the television industry. The governor also claimed that the computer takeback law was voluntary and the television takeback law would have been mandatory. In fact, both bills used the same enforcement mechanism where a manufacturer could only sell their products in Texas if they had a recycling plan approved by the Texas Commission on Environmental Quality.

“A more troubling aspect of this veto was the fact that my office was contacted numerous times by the Governor’s Office on many of the bills I authored but never about HB 821. In fact, the Governor’s Office told supporters of the bill that they were fine with HB 821 during the legislative session. It was only after the bill had passed the Legislature that I received any inkling that the Governor’s Office had any problem with the bill. In addition, they have been as inconsistent about their reason for the veto as they have been on whether or not they supported the bill. In his veto message, Governor Perry argued that the bill would hinder competition and imposed burdensome fees and regulations on Texas industry. However, the day after the veto message was released, it was reported in the media that Governor Perry told supporters of HB 821 that the reason he vetoed the bill was because the bill had been written by ‘industry.’

“There will be a real cost to Texas local governments and non-profits as a result of this veto. Television manufacturers stepped up to the plate to take responsibility for their products and were prepared to pay the cost of responsibly recycling old televisions. By vetoing this bill, Governor Perry will keep the burden of recycling these old televisions on local governments, taxpayers, charities like Goodwill, and the responsible manufacturers and retailers who are recycling voluntarily. At a time of tight budgets, it is unfortunate that taxpayers and charities will have to continue to pay for the costs of recycling.

“This bill was the result of bringing all interested parties to the table and building consensus on a television recycling bill that I believe could have been a model for the rest of the country. Governor Rick Perry has let all Texans down with his veto of HB 821 because this was a constructive consensus approach to a growing problem of what to do with millions of old TVs.”

**Sen. Kirk Watson**, the Senate sponsor, said: “HB 821 called for the creation of a television recycling program that was to be free and convenient for consumers. The bill represented a compromise between environmental groups and industry. Advocates of the environment saw the bill as a step forward for recycling, and as an important environmental protection, preventing toxic contamination of our soil and water. Industry saw the bill as a solution to a problem and hoped that the bill would become a model for other states to follow.

“With the veto of HB 821, Governor Perry disavows responsible environmental practice, and chooses to levy the costs associated with recycling on taxpayers and nonprofit organizations, like Goodwill Industries, rather than assign responsibility to industry. Regrettably, the governor is choosing to protect big business rather than the people of Texas, even when business is eager and willing to step up and assume responsibility for the end-of-life treatment of their own products.”

NOTES: The HRO analysis of HB 821 appeared in the May 13 *Daily Floor Report*.