

- SUBJECT:** Creating a TV manufacturer based TV recycling program
- COMMITTEE:** Environmental Regulation — committee substitute recommended
- VOTE:** 7 ayes — Cook, Burnam, Farrar, Hancock, Legler, Veasey, Weber
0 nays
2 absent — Chisum, Dunnam
- WITNESSES:** For — Christine Banks, Texas Association of Goodwills; James Canup, Texas League of Conservation Voters; Vandell Norwood; Robin Schneider, Texas Campaign for the Environment; (*Registered, but did not testify*, Ramon Alvarez, Environmental Defense Fund; Rudy Garza, City of Corpus Christi; Bob Gregory, Texas Disposal Systems; Matthew Johnson, Public Citizen; Luke Metzger, Environment Texas; Cyrus Reed, Lone Star Chapter, Sierra Club; Ann Travis, City of Houston)

Against — Jeffrey Clark, The Technology Association of America; (*Registered, but did not testify*, Stephen Minick, Texas Association of Business; Valerie Rickman, Information Technology Industry Council; Geoff Wurzel, TECHNET)

On — (*Registered, but did not testify*, Luke Bellsnyder, Texas Association of Manufacturers; Brian Christian, TCEQ)
- BACKGROUND:** The 80th Legislature enacted HB 2714 by Bonnen, which established the computer equipment recycling program. This program requires manufacturers to accept computers back from consumers for recycling and imposes penalties against manufacturers who do not comply.
- DIGEST:** CSHB 821 would set up a comprehensive program for the collection and recycling of television equipment for televisions sold or used by consumers in Texas. Texas Commission on Environmental Quality (TCEQ) would be 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.

Manufacturers. The bill would require television manufacturers to pay a \$2,500 annual fee and register with TCEQ before January 31 of every year. Registrations and renewals would be required 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. Television manufacturers would be required to submit an annual report to TCEQ detailing the weight or amount of television equipment sold and recycled in the preceding year.

CSHB 821 would require manufacturers to submit 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, and collection methods that would avoid requiring a consumer to pay a fee at the time of recycling. The bill would prohibit manufacturers from selling unlabeled TVs.

Retailers. CSHB 821 would prohibit retailers from selling TVs from manufacturers that had not registered with TCEQ. Retailers would also be required to provide consumers with information about the recycling program either by including it on the receipt or in packaging, or by a toll-free phone number and website.

Recyclers. The bill would require recyclers to register annually with TCEQ and submit a report detailing the total weight of TV equipment recycled in the preceding year. The bill would allow TCEQ to impose a fee for recycler registration.

Publicity. The bill would require TCEQ to publish a list of manufacturers participating in the program on its website. TCEQ would also be required to host or commission a third party to host another website that displayed a toll-free number for consumers to call to learn about the program and information about or links to manufacturer's collection programs and sites. TCEQ would be required to provide local governments with information in writing about television recycling.

TCEQ would be required to compute the state recycling rate and provide manufacturers with their market share allocation each year. TCEQ would not be authorized to charge recycling fees. The bill also would require TCEQ to submit an annual report to the Legislature detailing the program's performance.

Enforcement. The bill would authorize TCEQ, the attorney general, and the executive director to take appropriate action against television manufacturers, retailers, or recyclers who violated the rules of the recycling program. Violators would have 60 days to comply after a notice of violation was issued. Manufacturers who did not label their TV equipment would be assessed a penalty of not more than \$10,000 for a second violation and not more than \$25,000 for a subsequent violation. Other violations would be assessed a penalty of not more than \$1,000 for the second violation and not more than \$2,000 for each subsequent violation.

The bill also would prohibit a person from disposing of television waste in a landfill or incinerator. Landfill owners or operators would not be in violation of the recycling program if they:

- made a good faith effort to comply;
- posted a sign prohibiting the acceptance of television waste; and
- notified collectors in writing that television equipment would not be accepted.

Exemptions. The bill would exempt manufacturers, retailers, and recyclers from liability for information a consumer left behind on a television. Consumers would be responsible for any such information. The following types of electronic equipment would not be covered under the program:

- computers,
- parts of motor vehicles;
- industrial, governmental, commercial, research and development, medical, security, sensing, monitoring, antiterrorism, or emergency services equipment;
- devices in exercise equipment or appliances intended for home use;
- telephones;
- PDAs;
- global positioning systems;
- leased television equipment; or
- TVs that are part of a recycling contract between the manufacturer and the owner or renter.

The bill would require state agencies to give preference to manufacturers that collected more than their share of TVs for recycling or provided

collection sites in underserved areas. If a federal TV recycling law were to pass, TCEQ could adopt an agency statement interpreting federal law as preemptive of state law.

The bill would require TCEQ to adopt rules for implementation by May 1, 2010. The bill could not be enforced until September 1, 2010.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 821 would prevent countless television sets from being disposed of in landfills, where they pose a threat to the environment and public health. Televisions are made of heavy metals, like mercury, that can seep into and contaminate drinking water systems. Landfills are overflowing with tons of consumer waste that would have been better disposed of through recycling. The bill would reduce the amount of toxic waste in the state's landfills.

As the nation transitions to digital television, the number of televisions that consumers are ready to dispose of is likely to surge. Consumers who had older televisions at the time of the digital transition would be able to take advantage of the recycling program established by the bill. CSHB 821 would establish a timely new program that could make a tremendous difference if enacted before the digital transition.

Many consumers currently drop non-working television sets off at non-profit organizations in an attempt to give them away. Goodwill and similar organizations cannot handle all of the non-working televisions they receive. Charities are forced to spend thousands of dollars on the disposal of televisions dropped off at their doorsteps, when this should be the responsibility of the manufacturer. HB 821 appropriately would take the financial burden of recycling televisions off of the non-profits and transfer this responsibility to the manufacturer.

The bill would not unduly harm manufacturers. Many companies already take back televisions for recycling, and HB 821 would affect only the companies who have yet to adopt television recycling programs. Also, television take-back provisions in the bill would apply to manufacturers in proportion to their share of the television market, so small businesses would be responsible for recycling only a small percentage of the market.

OPPONENTS
SAY:

Television manufacturers do not need government intervention to set up recycling programs. Companies that can afford to do so already have set up comprehensive recycling programs. Smaller businesses, on the other hand, may not have the resources to afford to recycle used televisions. Because many manufacturers no longer are in operation, existing manufacturers would be unfairly burdened with recycling products that they did not produce. CSHB 821 would interfere with the free market mechanisms at work in the television manufacturing business.

NOTES:

The companion bill, HB 761 by Carona, was left pending in the Senate Natural Resources Committee on April 14.

The fiscal note estimates that the bill's \$2,500 registration fee would result in \$127,500 deposited in general revenue each year.