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# A BILL FOR AN ACT

RELATING TO ELECTRONIC DEVICE RECYCLING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Available estimates suggest that over  
2 100,000,000 computers, monitors, and televisions become obsolete  
3 each year, and this number is growing. If improperly managed,  
4 these used electronics can harm the environment and human  
5 health. These electronics contain valuable resources such as  
6 copper, gold, and aluminum, and if the electronics are disposed  
7 in landfills, these valuable resources are lost for future use.  
8 Additionally, research shows that toxic substances with known  
9 adverse health effects, such as lead, have the potential to  
10 leach from discarded electronics in landfills. In Hawaii, an  
11 additional problem is presented by the limited amount of space  
12 in our state's landfills. Valuable space could be saved by  
13 providing a method to encourage recycling of used and discarded  
14 electronics.

15           The purpose of this Act is to encourage recycling of  
16 electronic devices sold within the state by establishing an  
17 electronic device recycling program.



1 SECTION 2. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4 "CHAPTER

5 ELECTRONIC WASTE RECYCLING ACT

6 § -1 Definitions. As used in this chapter:

7 "Brand" means symbols, words, or marks that identify a  
8 covered electronic device, rather than any of its components.

9 "Covered entity" means any household, government entity,  
10 business, or nonprofit organization exempt from taxation under  
11 section 501(c)(3) of the United States Internal Revenue Code,  
12 regardless of size or place of operation within the state.

13 "Covered electronic device":

14 (1) Means a computer printer, computer monitor or  
15 television, whether cathode ray tube-based or flat  
16 panel-based, or a portable computer, with a screen  
17 size greater than four inches measured diagonally; and

18 (2) Shall not include:

19 (A) A covered electronic device that is a part of a  
20 motor vehicle or any component part of a motor  
21 vehicle assembled by or for a motor vehicle



1 manufacturer or franchised dealer, including  
2 replacement parts for use in a motor vehicle;

3 (B) A covered electronic device that is functionally  
4 or physically a part of a larger piece of  
5 equipment designed and intended for use in an  
6 industrial, commercial, or medical setting,  
7 including diagnostic, monitoring, or control  
8 equipment;

9 (C) A covered electronic device that is contained  
10 within a clothes washer, clothes dryer,  
11 refrigerator, refrigerator and freezer, microwave  
12 oven, conventional oven or range, dishwasher,  
13 room air conditioner, dehumidifier, or air  
14 purifier; or

15 (D) A telephone of any type, unless it contains a  
16 video display area greater than four inches  
17 measured diagonally.

18 "Department" means the department of health.

19 "Household" means any occupant of a single detached  
20 dwelling unit or of a single unit of a multiple dwelling unit  
21 who has used a covered electronic device at a dwelling unit  
22 primarily for personal or home business use.



- 1 "Manufacturer" means any existing person:
- 2 (1) Who manufactures or manufactured covered electronic  
3 devices under a brand that it owns or owned or is or  
4 was licensed to use, other than a license to  
5 manufacture covered electronic devices for delivery  
6 exclusively to or at the order of the licensor;
- 7 (2) Who sells or sold covered electronic devices  
8 manufactured by others under a brand that the seller  
9 owns or owned or is or was licensed to use, other than  
10 a license to manufacture covered electronic devices  
11 for delivery exclusively to or at the order of the  
12 licensor;
- 13 (3) Who manufactures or manufactured covered electronic  
14 devices without affixing a brand;
- 15 (4) Who manufactures or manufactured covered electronic  
16 devices to which it affixes or affixed a brand that it  
17 neither owns or owned nor is or was licensed to use;  
18 or
- 19 (5) For whose account covered electronic devices  
20 manufactured outside the United States are or were  
21 imported into the United States; provided that if at  
22 the time such covered electronic devices are or were



1 imported into the United States and another person has  
2 registered as the manufacturer of the brand of the  
3 covered electronic devices, this paragraph shall not  
4 apply.

5 "New covered electronic device" means a covered electronic  
6 device that is manufactured after the effective date of this  
7 chapter.

8 "Person" means any individual, business, partnership,  
9 limited liability company, corporation, not-for-profit  
10 organization, association, government entity, public benefit  
11 corporation, or public authority.

12 "Program year" means a full calendar year beginning on or  
13 after January 1, 2010.

14 "Recycling" means processing (including disassembling,  
15 dismantling, or shredding) covered electronic devices or their  
16 components to recover a useable product. "Recycling" does not  
17 include any process defined as incineration under applicable  
18 laws and rules.

19 "Retailer" means any person who offers covered electronic  
20 devices for sale, other than for resale by the purchaser,  
21 through any means, including sales outlets, catalogs, or the  
22 Internet.



1 "Sell" or "sale" means any transfer for consideration of  
2 title, including transactions conducted through sales outlets,  
3 catalogs, or the Internet, but excluding leases.

4 § -2 **Scope of products.** The collection, transportation,  
5 and recycling provisions of this chapter shall apply only to  
6 covered electronic devices used and discarded in this state by a  
7 covered entity.

8 § -3 **Sales prohibition.** (a) Beginning January 1, 2010,  
9 no manufacturer or retailer shall sell or offer for sale any new  
10 covered electronic device for delivery in this state unless:

11 (1) The covered electronic device is labeled with a brand,  
12 and the label is permanently affixed and readily  
13 visible; and

14 (2) The brand is included in a registration that is filed  
15 with the department and that is effective pursuant to  
16 section -4(b)(3).

17 (b) Beginning April 1, 2009, the department shall maintain  
18 a list of each registered manufacturer and the brands reported  
19 in each manufacturer's registration and a list of brands for  
20 which no manufacturer has registered. The lists shall be posted  
21 on the department website and shall be updated by the first day  
22 of each month. Each retailer who sells or offers for sale any



1 new covered electronic device for delivery in this state shall  
2 review these lists prior to selling the covered electronic  
3 device. A retailer is considered to have complied with  
4 subsection (a) if, on the date a new covered electronic device  
5 was ordered by the retailer, the brand was included on the  
6 department's list of brands reported in a manufacturer's  
7 registration.

8       § -4 **Manufacturer responsibility.** (a) Beginning  
9 October 1, 2009, each manufacturer shall label all new covered  
10 electronic devices to be offered for sale for delivery in this  
11 state with a brand, which label shall be permanently affixed and  
12 readily visible.

13       (b) (1) By January 1, 2009, each manufacturer of new  
14 covered electronic devices offered for sale for  
15 delivery in this state shall register with the  
16 department and pay to the department a registration  
17 fee of \$5,000. Thereafter, if a manufacturer has not  
18 previously registered, the manufacturer shall register  
19 with the department prior to any offer for sale for  
20 delivery in this state of the manufacturer's new  
21 covered electronic devices.



1           (2) Each manufacturer who is registered shall submit an  
2           annual renewal of its registration with the payment of  
3           a registration fee of \$5,000, by January 1 of each  
4           program year.

5           (3) The registration and each renewal shall include a list  
6           of all of the manufacturer's brands of covered  
7           electronic devices and shall be effective on the  
8           second day of the succeeding month after receipt by  
9           the department of the registration or renewal.

10          (c) By June 1, 2009, and annually thereafter, each  
11          manufacturer shall submit a plan to the department to establish,  
12          conduct, and manage a program for the collection,  
13          transportation, and recycling of its covered electronic devices  
14          sold in the state.

15          (d) By September 1, 2012, and annually thereafter, each  
16          manufacturer shall submit to the department the total weight of  
17          all covered electronic devices recycled in the previous year  
18          which may include both a manufacturer's own covered electronic  
19          devices and those of other manufacturers.

20          (e) The department shall publish a ranking of all  
21          manufacturers selling covered electronic devices in the state





1 based upon the annual total weight of covered electronic devices  
2 recycled by each manufacturer in the previous year.

3 (f) The State may adopt regulations allowing a procurement  
4 preference based upon a manufacturer's ranking.

5 (g) The department shall review each manufacturer's plan  
6 and, within sixty days of receipt of the plan, shall determine  
7 whether the plan complies with this chapter. If the plan is  
8 approved, the department shall notify the manufacturer or group  
9 of manufacturers. If the plan is rejected, the department shall  
10 notify the manufacturer or group of manufacturers and provide  
11 the reasons for the plan's rejection. Within thirty days after  
12 receipt of the department's rejection, the manufacturer or group  
13 of manufacturers may revise and resubmit the plan to the  
14 department for approval.

15 (h) The obligations under this chapter for a manufacturer  
16 who manufactures or manufactured covered electronic devices, or  
17 who sells or sold covered electronic devices manufactured by  
18 others, under a brand that was previously used by a different  
19 person in the manufacture of covered electronic devices, shall  
20 extend to all covered electronic devices bearing that brand.



1 (i) Nothing in this chapter is intended to exempt any  
2 person from liability that the person would otherwise have under  
3 applicable law.

4 § -5 **Retailer responsibility.** Beginning January 1,  
5 2010, retailers shall make available to their customers  
6 information on collection services in the state, including the  
7 department's website and toll-free telephone number. Remote  
8 retailers may include this information in a visible location on  
9 their website to fulfill this requirement.

10 § -6 **Department responsibility.** (a) Beginning January  
11 1, 2010, the department shall maintain and update a website and  
12 a toll-free number with current information on where covered  
13 entities can return covered electronic devices for recycling.

14 § -7 **Regulatory authority.** The department may adopt  
15 rules, pursuant to chapter 91, necessary to implement this  
16 chapter.

17 § -8 **Electronic device recycling fund.** (a) There is  
18 established in the state treasury the electronic device  
19 recycling fund into which shall be deposited all fees, payments,  
20 and penalties collected by the department pursuant to this  
21 chapter.



1 (b) The electronic device recycling fund shall be  
2 administered by the department of health. Moneys in the fund  
3 shall be expended by the director solely for the purpose of  
4 implementing and enforcing this chapter.

5 **§ -9 Financial and proprietary information.**

6 Notwithstanding any law to the contrary, financial or  
7 proprietary information, including trade secrets, commercial  
8 information, and business plans, submitted to the department  
9 under this chapter is confidential and is exempt from public  
10 disclosure.

11 **§ -10 Federal preemption.** This chapter shall be deemed  
12 repealed if a federal law or a combination of federal laws takes  
13 effect that establishes a national program for the collection  
14 and recycling of covered electronic devices that substantially  
15 meets the intent of this chapter, including the creation of a  
16 financing mechanism for collection, transportation, and  
17 recycling of all covered electronic devices from covered  
18 entities in the United States."

19 SECTION 3. If any provision of this Act, or the  
20 application thereof to any person or circumstance is held  
21 invalid, the invalidity does not affect other provisions or  
22 applications of the Act, which can be given effect without the



1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

3 SECTION 4. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun, before its effective date.

6 SECTION 5. This Act shall take effect on July 1, 2008.



S.B. NO. 2843  
S.D. 2  
H.D. 2

**Report Title:**

Electronic Device Recycling

**Description:**

Requires manufacturers of electronic devices to collect and recycle electronic devices; Establishes the Electronic Device Recycling Fund. (SB2843 HD2)

SB2843 HD2 HMS 2008-3221

