

H. B. 3153

(By Delegate Manypenny)

[Introduced March 25, 2013; referred to the
Committee on the Judiciary then Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §22-15B-1 and §22-15B-2, all relating to retailer electronic waste collection; definitions; and the responsibilities of retailers engaged in the sale of covered electronic equipment.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §22-15B-1 and §22-15B-2, all to read as follows:

ARTICLE 15B. RETAILER ELECTRONIC WASTE COLLECTION.

§22-15B-1. Definitions.

As used in this article:

(a) "Cathode ray tube" means a vacuum tube or picture tube used to convert an electronic signal into a visual image;

1 (b) "Computer" means an electronic, magnetic, optical,
2 electrochemical or other high-speed data processing device
3 performing a logical, arithmetic or storage function, including a
4 laptop computer and desktop computer, and includes any cable, cord,
5 or wiring permanently affixed to or incorporated into the product,
6 and may include both a computer central processing unit and a
7 monitor; but the term does not include an automated typewriter or
8 typesetter, a portable hand-held calculator, a portable digital
9 assistant, server or other similar device;

10 (c) "Computer peripheral" means a monitor, electronic
11 keyboard, electronic mouse or similar pointing device, facsimile
12 machine, document scanner or printer intended for use with a
13 computer and includes any cable, cord or wiring permanently affixed
14 to or incorporated into any such product. Computer peripheral does
15 not include any document scanner or printer which weighs one
16 hundred pounds or more;

17 (d) "Consumer" means a person located in the state who owns or
18 uses covered electronic equipment, including, but not limited to,
19 an individual, a business, corporation, limited partnership,
20 not-for-profit corporation, the state, a public corporation, public
21 school, school district, private or parochial school or board of
22 cooperative educational services or governmental entity, but does
23 not include an entity involved in a wholesale transaction between
24 a distributor and retailer;

1 (e) "Covered electronic equipment" means a computer, computer
2 peripheral, small electronic equipment, small-scale server, cathode
3 ray tube or television, as defined in this section. "Covered
4 electronic equipment" does not include any motor vehicle or any
5 part thereof, camera or video camera, portable or stationary radio,
6 household appliances such as clothes washers, clothes dryers,
7 refrigerators, freezers, microwave ovens, ovens, ranges or
8 dishwashers, equipment that is functionally or physically part of
9 a larger piece of equipment intended for use in an industrial,
10 research and development or commercial setting, security or
11 anti-terrorism equipment, monitoring and control instrument or
12 system, thermostat, hand-held transceiver, telephone of any type,
13 portable digital assistant or similar device, calculator, a server
14 other than a small-scale server, a cash register or retail
15 self-checkout system, a stand-alone storage product intended for
16 use in industrial, research and development or commercial settings,
17 commercial medical equipment that contains within it a cathode ray
18 tube, a flat panel display or similar video display device and is
19 not separate from the larger piece of equipment or other medical
20 devices as that term is defined under the Federal Food, Drug and
21 Cosmetic Act;

22 (f) "Electronic waste" means covered electronic equipment that
23 has been discarded or is no longer wanted by its owner or for any
24 other reason enters the waste collection, recovery, treatment,

1 processing or recycling system;

2 (g) "Monitor" means a separate visual display component of a
3 computer, whether sold separately or together with a computer
4 central processing unit and includes a cathode ray tube, liquid
5 crystal display, gas plasma, digital light processing or other
6 image projection technology, greater than four inches when measured
7 diagonally and its case, interior wires and circuitry and any cable
8 cord or wiring permanently affixed thereto or incorporated into the
9 product;

10 (h) "Large Retailer" means a commercial enterprise or
11 establishment, including a sole proprietorship, joint venture,
12 partnership, corporation or other legally recognizable entity,
13 whether for profit or not-for-profit, that:

14 (1) Is a full-line, self-service retail store that sells new
15 covered electronic equipment by any means directly to a consumer
16 but does not include businesses that regularly lease, offers to
17 lease or arranges for leasing of merchandise under a
18 rental-purchase agreement;

19 (2) Has annual sales of \$5 million or more, not including
20 sales of motor fuel; and

21 (3) Has over seventy-five thousand square feet of retail
22 space;

23 (i) "Small electronic equipment" means any portable digital
24 music player that has memory capability and is battery-powered,

1 video cassette recorder, a digital video disc player, digital video
2 recorder, digital converter box, cable or satellite receiver or
3 electronic or video game console and includes any cable, cord or
4 wiring permanently affixed to or incorporated into any such
5 product;

6 (j) "Small-scale server" means a computer that typically uses
7 desktop components in a desktop form factor, but is designed
8 primarily to be a storage host for other computers. To be
9 considered a small-scale server, a computer must have the following
10 characteristics: designed in a pedestal, tower or other form factor
11 similar to those of desktop computers such that all data
12 processing, storage and network interfacing is contained within one
13 box or product; intended to be operational twenty four hours per
14 day and seven days a week and unscheduled downtime is extremely
15 low, such as on the order of hours per year; is capable of
16 operating in a simultaneous multi-user environment serving several
17 users through networked client units; and designed for an industry
18 accepted operating system for home or low-end server applications;
19 and

20 (k) "Television" means a display system containing a cathode
21 ray tube or any other type of display primarily intended to receive
22 video programming via broadcast, cable or satellite transmission,
23 having a viewable area greater than four inches when measured
24 diagonally.

1 **§22-15B-2. Retailer's responsibilities.**

2 (a) Every retailer engaged in the sale of covered electronic
3 equipment shall:

4 (1) Accept, at no charge, electronic waste from any person
5 during the normal business hours of the business; or

6 (2) Offer to any person at no charge, the shipping of
7 electronic waste to a recycling program conducted by the retailer.

8 (b) Information about such a program shall be readily
9 available at such retailer locations and on its website.

10 (c) Every retailer required to accept electronic waste
11 pursuant to subsection (a) of this section shall conspicuously post
12 a sign open to public view, clearly indicating that electronic
13 waste is accepted. The signs may also state that electronic waste
14 shall only be accepted during normal business hours, and may state
15 the hours.

16 (d) Every retailer required to accept electronic waste shall
17 take reasonable steps to work with brand-owners of electronic
18 products to ensure all electronic waste accepted pursuant to this
19 section shall either be recycled, reused or disposed of in an
20 environmentally sound manner by a recycler with a certification.

21 (e) A large retailer may not offer covered electronics for
22 sale in this state unless the retailer complies with the provisions
23 of this article.

NOTE: The purpose of this bill is to define the responsibilities of retailers engaged in the sale of covered electronic equipment for electronic waste collection. The bill also provides definitions.

This article is new; therefore, it has been completely underscored.