

HB 1809, HD 1

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

H.B. 1809, H.D. 2 , RELATING TO RECYCLING

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

April 2, 2009
3:30 P.M.

1 **Department's Position:** The Department of Health opposes this bill because it is imprudent to
2 establish new programs and services in light of the State's financial circumstances. In addition, the
3 private sector can handle the function of recycling televisions.

4 **Fiscal Implications:** If the department is intended to have a serious enforcement role, it estimates that
5 additional resources required to administer this program would be \$150,000 to \$200,000 annually
6 including 2.0 FTEs.

7 **Purpose and Justification:** The department opposes this bill, which creates of a statewide program for
8 the recycling of televisions and is the television industries' response to requirements set forth in Act 13
9 of the 2008 First Special Session. It uses a "market share" approach generally favored by many
10 manufacturers and starts actual recycling on January 1, 2011.

11 DOH supports recycling and efforts by manufacturers to assume responsibility for the waste that
12 results when their products are no longer used.

1 The Governor vetoed measure SB2843 SD2 HD3 CD1, which created the Electronic Waste
2 Recycling program (Act 13 of 2008 Special Session; currently codified in Hawaii Revised Statutes
3 (HRS) Chapter 339D). In a "Note" to HRS §339D-1, the Legislature requires that, if a separate plan for
4 the collection, transportation, and recycling of televisions is not implemented before January 1, 2011,
5 the definition of "covered electronic device" shall be amended to include "televisions." HB 1809 is the
6 likely progeny of the Electronic Waste Recycling program and, as such, the department opposes this
7 measure and the establishment of a government-run television recycling program. This measure, like
8 the Electronic Waste Recycling program establishes numerous requirements on television manufacturers
9 and retailers that will increase the cost of doing business in Hawaii. The administration believes the
10 development of this State-run program is unnecessary as several television manufacturers and industry
11 associations provide extensive information on their websites about where and how to recycle their
12 electronic products.

13 Thank you for the opportunity to testify on this measure.

14
15
16
17
18
19
20
21
22
23
24



April 1, 2009

Members of the Energy and Environmental Protection Committee
Conference Room 225
State Capitol
415 South Beretania Street

RE: HB 1809, a Bill to Establish a Television Recycling and Recovery Program
Energy and Environmental Protection Committee Hearing
Thursday, April 2, 2009, 3:30 pm

Members of the Committee:

The Environmental Leadership Council at the Information Technology Industry Council (ITI) would like to thank you for the opportunity to comment on HB 1809, a bill to establish a television recycling and recovery program. Ensuring the appropriate end of life management of electronics is an important public policy goal for ITI. Accordingly, we offer the following comments on behalf of our members and ask the Committee to consider our comments for inclusion in HB 1809.

In late 2008, ITI submitted a proposal for the end of the life management of televisions to the Hawaii Department of Health (DoH) on behalf of manufacturers. We have included ITI's submission to the DoH with our testimony and offer it as a statement of our primary policy objectives. In addition to ITI's submission to the DoH, we offer the following suggested changes to the current language of HB 1809.

Provide Incentive for Collection rather than Impose Penalties

ITI urges the committee to remove the penalty provision for not meeting collection targets § 7(f). Manufacturers should not be penalized for the actions (or inactions) of consumers. These devices are private property. Manufacturers cannot compel private citizens to turn in their property at all, let alone according to some statutory schedule. Television manufacturers should still have a target to meet; however, instead of penalizing manufacturers, the DoH should publish a list ranking each manufacturer's collection efforts. This would make the television program consistent with the existing program for information technology equipment. Such publicity will provide the incentive for manufacturers to provide recycling opportunities without imposing penalties that will only penalize manufacturers for the behavior of consumers, not the behavior of the manufacturers.

We recommend the following language:

By <date>, and annually thereafter, the department shall publish a ranking of all manufacturers selling covered televisions in the State, based upon the annual total weight of covered televisions recycled by each manufacturer in the previous year.

If you have any questions or would like further information, you can contact me at vrickman@itic.org or 202-626-5729. We look forward to further engagement on this important emerging bill and welcome the opportunity to provide more information or background for your additional consideration.

Respectfully submitted,



Valerie Rickman
Assistant Manager, Environmental Affairs
vrickman@itic.org
202.626.5729

ABOUT ITI

The Information Technology Industry Council (ITI) represents the nation's leading high-tech companies and is recognized as one of the most effective advocacy organizations for the tech industry in Washington and internationally. ITI helps member companies achieve their policy objectives through building relationships with Members of Congress, Administration officials, and foreign governments; organizing industry-wide consensus on policy issues; and working to enact tech-friendly government policies.

ITI's Environmental Leadership Council (ELC) is a separate membership within ITI that represents numerous leading global manufacturers of a wide range of electronic equipment, including computers, televisions, monitors and printers. ELC member companies have long been leaders in innovation and sustainability, often taking measures to exceed requirements on environmental design and energy efficiency and to lead the way in product stewardship efforts. As a result, such prestigious indices as the Dow Jones Sustainability Index, the Financial Times Sustainability Index, and the Global 100 have consistently recognized numerous ELC members for their concrete environmental and sustainability achievements.



2009 Environmental Leadership Council Members

1. 3M
2. Acer
3. Advance Micro Devices
4. Agilent Technologies
5. Alcatel-Lucent
6. Apple
7. Avaya
8. Brush Wellman
9. Canon USA
10. Casio
11. Cisco Systems
12. Dell
13. Eastman Kodak
14. EMC
15. Epson America
16. Flextronics
17. Funai
18. Garmin International
19. Hewlett-Packard
20. Hitachi
21. IBM
22. InfoPrint
23. Intel
24. JVC Americas
25. Kenwood USA
26. Konica Minolta
27. Kyocera Mita
28. Lenovo
29. Lexmark International Inc
30. LG Electronics
31. LSI
32. Microsoft
33. Mitsubishi Digital Electronics America
34. Motorola
35. National Semiconductor
36. NCR
37. NEC Display
38. Nokia
39. NVIDIA
40. Palm
41. Panasonic
42. Philips Electronics
43. Pioneer Electronics Service, Inc
44. Pitney Bowes
45. Planar Systems
46. RadioShack
47. Research In Motion
48. Ricoh Americas
49. Rockwell Automation
50. Samsung Electronics Co.
51. Sanyo
52. Sharp Electronics
53. Siemens Medical Solutions USA
54. Silicon Graphics
55. Sony Electronics Inc
56. Sun Microsystems
57. Tektronix
58. Texas Instruments
59. Thomson
60. Toshiba America
61. TTE Technology
62. Xerox
63. Yamaha of America



Information Technology Industry Council
Leading Policy for the Innovation Economy

Mr. Steven Chang
Chief, Solid & Hazardous Waste Branch
Hawaii Department of Health
(808) 586-4226

November 19, 2008

Dear Mr. Chang:

The Information Technology Industry Council (ITI) would like to thank the Department for the opportunity to submit the following proposal. ITI's Environmental Leadership Council represents numerous leading manufacturers of IT equipment, televisions and other consumer electronics devices that are subject to the City's electronics recycling ordinance.

ITI and our member companies support reasonable efforts to promote the safe and appropriate recycling of used electronics products to help meet the important environmental goal of increasing resource conservation and recovery. The accompanying proposal has been developed with the support of ITI's members and we are confident that the implementation of this proposal will satisfy the needs of the residents of Hawaii.

ITI's proposal contains several key elements that are essential to a successful recycling program for televisions. The proposal allows for flexibility, collaboration, and the proper allocation of responsibilities among all current market participants. We have prepared legislative language based on the recently passed North Carolina television program, and have merged the program requirements of North Carolina's program with the requirements of the IT program in Hawaii. The intended outcome is a program that satisfies the recycling needs of residents and also eases the administrative burden to the Department associated with administering two recycling programs.

Key Definitions

(a) **"Covered television"**: (1) means a television; and (2) Shall not include: (A) A television that is functionally or physically a part of, or connected to, or integrated within a larger piece of equipment or system designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including but not limited to diagnostic, monitoring, control or medical products (as defined under the Federal Food, Drug, and Cosmetic Act), or equipment used for security, sensing, monitoring, anti-terrorism, emergency services purposes or equipment designed and intended primarily for use by professional users; (B) A television that is part of a motor vehicle or any component of a motor vehicle assembled by or for a motor vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

(b) **"Household"**: means any occupant of a single detached dwelling unit or of a single unit of a multiple dwelling unit who has used a covered television at a dwelling unit primarily for personal or home business use.

(c) **"Market share"**: A television manufacturer's obligation to recycle discarded televisions. A television manufacturer's market share is the television manufacturer's prior year's sales of televisions (by weight) as calculated by the Department divided by all manufacturers' prior year's



sales for all televisions (by weight) as calculated by the Department. Market share may be expressed as a percentage, a fraction, or a decimal fraction.

(d) **“Television”**: Any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of 9 inches or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD), light emitting diode (LED), or similar technology marketed and intended for use by a household. The term does not include a computer, computer printer, computer monitor, or portable computer.

(e) **“Television manufacturer”**: A person that: (i) manufactures for sale in this State a television under a brand that it licenses or owns; (ii) manufactures for sale in this State a television without affixing a brand; (iii) resells into this State a television under a brand it owns or licenses produced by other suppliers, including retail establishments that sell a television under a brand that the retailer owns or licenses; (iv) imports into the United States or exports from the United States a television for sale in this State; (v) sells at retail a television acquired from an importer that is the manufacturer as described in (i) of this subdivision, and the retailer elects to register in lieu of the importer as the manufacturer of those products; (vi) manufactures a television for or supplies a television to any person within a distribution network that includes wholesalers or retailers in this State and that benefits from the sale in this State of the television through the distribution network; or (vii) assumes the responsibilities and obligations of a television manufacturer under this Part. In the event the television manufacturer is one that manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand shall not be considered to be a television manufacturer under (i) or (iii) of this subdivision.

Requirements for television manufacturers.

- (a) By January 1, 2010, each television manufacturer, before selling or offering for sale televisions in the State, shall register with the Department and, at the time of registration, shall pay an initial registration fee of two thousand five hundred dollars (\$2,500) to the Department. Thereafter, if a television manufacturer has not previously registered, the manufacturer shall register with the Department prior to any offer for sale for delivery in this State of the television manufacturer’s new televisions. A television manufacturer that has registered shall pay an annual renewal registration fee of two thousand five hundred dollars (\$2,500) to the Department. The annual renewal registration fee shall be paid to the Department by January 1 of each year.
- (b) The registration and each renewal shall include a list of all of the television manufacturer’s brands of covered televisions and shall be effective on the second day of the succeeding month after receipt by the Department of the registration or renewal.
- (c) A television manufacturer shall provide the Department with contact information for the television manufacturer's designated agent or employee whom the Department may contact for information related to the television manufacturer's compliance with the requirements of this section.



- (d) The obligation to recycle covered televisions shall be allocated to each television manufacturer based on the television manufacturer's market share multiplied by the total pounds of televisions recycled by all manufacturers during the previous program year. Beginning in program year 2012, a television manufacturer must annually recycle or arrange for the recycling of its market share of covered televisions pursuant to this section.
- (e) A television manufacturer may fulfill the requirements of this section either individually or in participation with other television manufacturers.
- (f) A television manufacturer shall report to the Department by March 31, 2012, and annually thereafter, the total weight of covered televisions the manufacturer collected in the State and recycled during the previous year.

Retailer Responsibilities

- (a) Beginning January 1, 2011, a retailer shall not sell or offer to sell any covered television in this State unless a visible, permanent label clearly identifying the manufacturer of that device is affixed to the equipment and the television manufacturer has registered with the State.
- (b) Beginning January 1, 2011, retailers shall make available to their customers information on collection services in the State, including the Department's website and toll-free telephone number. Remote retailers may include this information in a visible location on their website to fulfill this requirement.

Department Responsibilities

- (a) The Department shall use State-specific television sales data or national television sales data available from commercially available analytical sources to determine each television manufacturer's recovery responsibilities for televisions based on the manufacturer's market share. If the Department uses national sales data, the Department shall extrapolate data for the State from national data on the basis of the State's share of national population. The Department shall seek to establish the most accurate determination of each manufacturer's market share and may rely on supplemental sources of information to achieve this goal.
- (b) By May 1, 2012 and annually thereafter, the Department shall notify each manufacturer of its non-binding recycling obligation. Each manufacturer's obligation will be based on that manufacturer's market share from the previous year multiplied by the total pounds of televisions collected by all manufacturers during the previous program year.
- (c) Beginning January 1, 2011, the Department shall include on the website and toll-free number maintained in accordance with § 6(a) of Act 13 of the First Special Legislative Session of 2008 current information on where households can return covered televisions for recycling.

If you have any questions regarding this proposal or would like further information, please contact me at vrickman@itic.org or (202) 626-5729. We look forward to further engagement on this important issue and welcome the opportunity to provide more information or background for your additional consideration.



Information Technology Industry Council
Leading Policy for the Innovation Economy

Regards,

Valerie Rickman
Environmental Affairs Analyst
Information Technology Industry Council (ITI)
1250 Eye St, NW - Suite 200
Washington, DC 20005
202.626.5729
www.itic.org

ABOUT ITI

The Information Technology Industry Council (ITI) represents the nation's leading high-tech companies and is recognized as one of the most effective advocacy organizations for the tech industry in Washington and internationally. ITI helps member companies achieve their policy objectives through building relationships with Members of Congress, Administration officials, and foreign governments; organizing industry-wide consensus on policy issues; and working to enact tech-friendly government policies.



Meggan Ehret, Corporate Secretary
Thomson Inc.
101 W. 103rd Street, INH 3340, Indianapolis, IN 46290
Tel: 317-587-4966
Fax: 317-587-9638
meggan.ehret@thomson.net

April 2, 2009

**TO: Sen. Mike Gabbard
Chair, Committee on Energy and Environment
State Senate - Hawaii State Capitol, Room 201**

**Sen. Roslyn Baker
Chair, Committee on Commerce and Consumer Protection
State Senate - Hawaii State Capitol, Room 231**

**Sen. Brian Taniguchi
Chair, Committee on Judiciary and Government Operations
State Senate - Hawaii State Capitol, Room 219**

FROM: Meggan Ehret, Senior Counsel, Thomson Inc.

**RE: HB 1809, HD2 – Relating to Television Recycling
Hearing: Thursday, April 2, 2009 @ 3:30 PM
Conference Room 225
Hawaii State Capitol**

Chairs Gabbard, Baker and Taniguchi, and members of the Committees,

My name is Meggan Ehret and I am Deputy General Counsel with Thomson Inc. and also serve as its corporate secretary. I am testifying in support of HB 1809.

Thomson Inc. is committed to developing a workable and environmentally sustainable solution for e-waste, which, according to the EPA, is the fastest growing portion of the municipal solid waste stream. Finding a solution for the management of end of life household electronic waste is an important public policy goal of the electronics industry. We applaud the Legislature for having this hearing to ensure that the e-waste solution is a workable one that accomplishes the goal. We appreciate the opportunity to participate in this discussion.

Used TVs and computer monitors may present environmental risks if they are not properly disposed of or recycled. But differences between TVs and computers necessitate different approaches to recycling. Computer manufacturers already utilize various "takeback" programs that enable consumers to return used computers to present day manufacturers. Such "takeback" systems work well for computer equipment. However, a "takeback" approach is inappropriate and unworkable for used TVs. This is because televisions have a much longer life than computers (more than 10 years longer), many manufacturers of older TVs are no longer in



Meggan Ehret, Corporate Secretary
Thomson Inc.
101 W. 103rd Street, INH 3340, Indianapolis, IN 46290
Tel: 317-587-4966
Fax: 317-587-9638
meggan.ehret@thomson.net

business (creating “orphan units”), TVs are not as easily transportable as computers, and used TVs are not as valuable for recycling or reuse as used computers.

A better solution would apply a separate program for TVs. Under this proposal, each present-day TV manufacturer would make yearly payments to an in-state recycling program or run an individually financed program that would accept all TVs. Each manufacturer's contribution would be based on each individual TV manufacturer’s annual TV sales in the state.

To date, 18 states and New York City have enacted electronics recycling laws. Existing electronics recycling laws can offer a lot of guidance to states that are still deciding what kind of electronics recycling legislation to enact. Sixteen of the laws include televisions in the product scope, with the overwhelming majority of them assigning recycling and financing obligations to TV manufacturers based on current market share.

A market share approach requires each current manufacturer to pay for a share of the recycling of televisions based on its respective share of the market and account for these costs in the price of their product. Furthermore, this program would eliminate dealing with “orphan units”, those units made by companies no longer in business because today’s manufacturers would recycle televisions by weight based on their respective market share, regardless of the brand name.

HB 1809, HD2 sets forth a separate, comprehensive program for TV recycling and identifies a market share approach by requiring each current manufacturer to pay for a share of the recycling of televisions based on its respective share of the market and account for these costs in the price of their product.

Furthermore, we respectfully request language be inserted in the bill which repeals the provisions in Section 339D-1, Hawaii Revised Statutes that states the law will apply to TVs if a separate plan for the collection, transportation, and recycling of televisions is not implemented before January 1, 2011. If HB 1809 is approved, there is no need for existing language in the statute and should be repealed.

In summary, HB 1809 accomplishes needed recycling goals with a workable solution for the industry and the state. Thomson respectfully asks that the Committee to approve House Bill 1809.

Thank you for allowing me the opportunity to provide my comments to you.

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair
Committee on Energy and Environment

Senator Rosalyn Baker, Chair
Senator David Ige, Vice Chair
Committee on Commerce and Consumer Protection

Senator Brian Taniguchi, Chair
Senator Dwight Takamine, Vice Chair
Committee on Judiciary and Government Operations

HEARING Thursday, April 02, 2009
 3:30 pm
 Conference Room 225
 Honolulu, HI 96813



RE: **HB1809, HD2, Relating Recycling**

Chairs Gabbard, Baker and Taniguchi, Vice Chairs English, Ige, and Takamine, and Members of the Committees:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

RMH supports the intent of HB1809 HD2, which establishes a television recycling and recovery program.

National legislation, while still pending in Congress, is the ultimate and best solution. A series of individual state-by-state laws tends to confuse the consumer and forces manufacturers and retailers to absorb tremendous administrative costs. However, understanding the urgency of our addressing this issue to avoid further impact on our environment, the manufacturer responsibility model is our preferred approach.

We have two concerns that were recognized by Chair Morita (EEP), Chair McKelvey (EBM) and Chair Oshiro (FIN) in the Committee Reports, but were not addressed in either HD1 or HD2:

- Registration Fees:
§339D, HRS, Electronic Waste Recycling Act: [§339D-4] requires computer manufacturers to pay a registration fee and annual renewal fee of \$5,000.

HB1908, HD2, establishes a \$2,500 registration fee and annual renewal fee of \$2,500 for television manufacturers. We question the reason for the discrepancy, which could be perceived as preferential treatment for televisions manufacturers

- Enforcement and Penalties
[§339D-8], HRS, Enforcement, provides for the department to issue a warning to be followed up by action by the attorney general, and [§339D-9] Administrative Penalties, authorizes the Department of Health to impose penalties and fines. This section allows retailers and manufacturers reasonable latitude to work with the Department to correct any problem before penalties and fines are imposed.

HB1908, HD2, in § -7 (b), establishes penalties of up to \$10,000 for the first violation and \$25,000 for the second. These penalties are harsh and unreasonable. We suggest that the language in § -7 (c), "penalty of up to \$1,000 for the first violation and up to \$2,000 for the second and each subsequent violation" is adequate.

Thank you for your consideration and for the opportunity to comment on this measure. We look forward to participating in the continued discussion.

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
Honolulu, HI 96814
ph: 808-592-4200 / fax: 808-592-4202



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.537.9019 hawaii.chapter@sierraclub.org

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENT
HOUSE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
HOUSE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

March 4, 2009, 11:30 A.M.
(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 1809, HD2

Aloha Chairs Gabbard, Baker, and Taniguchi and Members of the Committees:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, supports HB 1809, HD2, establishing a television recycling and recovery program. This bill is a logical continuation of last year's important e-waste statute (Haw. Rev. Stat. Ch. 339D-1 (Supp. 2008)).

As the Sierra Club testified last year, waste from computers, televisions, and other high-tech devices is an increasing problem. This type of waste frequently contains toxic materials, such as lead in the circuit board soldering or in the cathode ray tube. Moreover, with landfill issues on nearly every island, policies to divert waste from landfills should be encouraged.

Incorporating televisions into the current legislation is critical now as more and more residents purchase high definition televisions. The Sierra Club frequently receives calls from members asking for advice on how to dispose of their old TV sets -- unfortunately, there is no good answer.

We ask that this timely measure be forwarded for further discussion.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 29, 2009 10:35 PM
To: ENETestimony
Cc: silval023@hawaii.rr.com
Subject: Testimony for HB1809 on 4/2/2009 3:30:00 PM

Testimony for ENE/CPN/JGO 4/2/2009 3:30:00 PM HB1809

Conference room: 225
Testifier position: support
Testifier will be present: No
Submitted by: linda silva
Organization: Individual
Address: 3960 Niho Road Kalaheo, hawaii
Phone: 808 482-9785
E-mail: silval023@hawaii.rr.com
Submitted on: 3/29/2009

Comments:

We need to recycle as much as possible to reduce the load in our landfills, especially these big toxic items. Please support recycling. Mahalo! Linda Silva

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 29, 2009 4:36 PM
To: ENETestimony
Cc: dina.brooks@gmail.com
Subject: Testimony for HB1809 on 4/2/2009 3:30:00 PM
Attachments: testimony for HB 1809

Testimony for ENE/CPN/JGO 4/2/2009 3:30:00 PM HB1809

Conference room: 225
Testifier position: support
Testifier will be present: No
Submitted by: Dina Brooks
Organization: Individual
Address: 41-016 Hilu Street Waimanalo, HI
Phone:
E-mail: dina.brooks@gmail.com
Submitted on: 3/29/2009

Comments: