



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	04/08/10	Bill No:	<u>AB 2611</u>
Tax:	Covered Electronic Waste Recycling	Author:	Ma
Related Bills:			

This analysis will only address the bill's provisions that impact the Board of Equalization (Board).

BILL SUMMARY

This bill would revise the definition of “covered electronic device” for purposes of the covered electronic waste recycling fee (eWaste fee) to mean a video display device containing a screen with greater than nine square inches of surface that is identified in regulations adopted by the Department of Toxic Substances Control (DTSC), as specified.

ANALYSIS

CURRENT LAW

Under existing law, the Electronic Waste Recycling Act of 2003¹ (eWaste Act) requires a consumer to pay a fee upon the purchase of a new or refurbished covered electronic device (CED) in specified amounts. Unless otherwise provided, a retailer is required to collect a fee from the consumer at the time of the retail sale of the CED.

A CED is defined to mean a video display device containing a screen greater than four inches measured diagonally that is identified as an electronic device presumed to be a hazardous waste when discarded, in regulations adopted by the DTSC. Currently, the following electronic devices are identified as CEDs in regulations adopted by DTSC and are subject to the eWaste fee:

- Cathode ray tubes (CRTs)
- Devices containing CRTs
- Computer monitors containing CRTs
- Laptop computers with liquid crystal display (LCD)
- LCD containing desktop monitors
- Televisions containing CRTs
- Televisions containing LCDs
- Plasma televisions
- Portable DVD players with LCD

Specifically excluded from the definition of a CED are certain video display devices, such as a video display device that is part of a motor vehicle, contained within, or a part of, a piece of industrial, commercial, or medical equipment, or contained within certain household appliances. Also excluded from the definition of a CED is an electronic device that ceases to be a CED, as provided, if the manufacturer obtains DTSC concurrence that an electronic device would not be a hazardous waste when discarded.

¹ Chapter 8.5 (commencing with Section 42460) of Part 3 of Division 30 of the Public Resources Code

The amount of the fee is established by the Department of Resources Recycling and Recovery (CalRecycle), in collaboration with DTSC, at an amount to ensure there are sufficient revenues in the Electronic Waste and Recovery and Recycling Account (Account) to fund the covered electronic waste recycling program. The current fee rates are as follows:

Screen Size Measured Diagonally	Fee
More than 4 inches, less than 15 inches	\$8.00
15 inches or more, less than 35 inches	\$16.00
35 inches or more	\$25.00

The eWaste fee is collected by the Board and deposited in the Account. The funds in the Account are continuously appropriated without regard to fiscal year for the following purposes:

- To pay refunds of the covered electronic waste recycling fee.
- To make electronic waste recovery payments to an authorized collector of covered electronic waste, as provided.
- To make electronic waste recycling payments to covered electronic waste recyclers.
- To make payments to manufacturers that take back a covered electronic device from a consumer in this state for purposes of recycling the device at a processing facility.

The money in the Account is also expended for administrative cost reimbursement and to establish a public information program, but only upon appropriation by the Legislature in the annual Budget Act.

Health and Safety Code Section 25214.10.1(b) requires DTSC to adopt regulations that identify electronic devices that DTSC determines are presumed to be, when discarded, a hazardous waste. Subdivision (d)(2) of that same section states that a CED identified in the regulations adopted by DTSC becomes subject to the eWaste fee on and after July 1 of the year subsequent to the year in which the CED is first identified in the regulations.

PROPOSED LAW

This bill would amend Public Resources Code Section 42463 to provide that a CED would be defined to mean a video display device containing a screen with greater than nine square inches of surface, instead of four inches measured diagonally, that is identified in the regulations adopted by DTSC pursuant to subdivision (b) of Health and Safety Code Section 25214.10.1.

The bill would also revise the definition of “board” from the California Integrated Waste Management Board to mean CalRecycle.

This bill would become effective January 1, 2011.

BACKGROUND

In 2003, Senate Bill 20 (Sher, Ch. 526) enacted the eWaste Act. Among other things, the Act imposed, on and after July 1, 2004, a fee upon the first sale in the state of a CED to a consumer by a retailer. The Act authorized the California Integrated Waste Management Board to contract with the Board or another party for collection of the fee.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

However, Assembly Bill 901 (Jackson, Ch. 84, Stats. 2004) deferred the operative date for the fee from July 1, 2004, to November 1, 2004.

In 2004, Senate Bill 50 (Sher, Ch. 863) again postponed the operative date for the fee by two months to January 1, 2005, designated the Board for collection of the fee, and made several clarifying changes to the fee.

In 2006, Assembly Bill 3001 (Pavley) would have imposed a six dollar (\$6) eWaste fee upon the purchase of a new or refurbished CED that met the definition of a personal computer. That bill was held under submission in the Assembly Appropriations Committee.

During the 2007-08 Legislative Session, two bills were introduced to expand the definition of a CED: AB 546 (Brownly) and AB 1535 (Huffman). AB 546 would have imposed a ten dollar (\$10) eWaste fee upon the purchase of a new or refurbished CED that met the definition of a "CPU tower," and AB 1535 would have imposed a six dollar (\$6) eWaste fee upon the purchase of a new or refurbished CED that met the definition of a personal computer.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by Technology for the Visually Impaired, LLC and is intended to establish an objective standard for measuring video screen surface area and take into consideration the needs of the visually impaired.
2. **What devices are currently subject to the fee?** The bill's Legislative findings and declarations seem to indicate that mobile phones and personal digital assistant devices (PDAs) are currently subject to the eWaste fee. Only electronic devices identified in regulations adopted by DTSC and which fall within the definition of a CED are subject to the eWaste fee. The regulations currently do not include mobile phones and PDAs, and are therefore, not subject to the fee.

As explained previously, a CED becomes subject to the eWaste fee on and after July 1 of the year subsequent to the year the device is first identified in the DTSC's regulations.

3. **Does this bill add or remove devices subject to the fee?** This bill does not change the CEDs listed in the DTSC's regulations that are currently subject to the fee; it only changes the base measurement for a device to qualify as a CED subject to the fee. By revising the base screen measurement to nine square inches of surface, it appears to exclude some devices with smaller screen sizes that have a screen size greater than 4 inches measured diagonally.
4. **This bill could complicate a retailer's collection of the fee.** Currently, retailers collect the eWaste fee based on diagonal inches, which is a standard measurement for electronic devices and typically easy to identify on a product's box or other packaging. The amount of the fee, which this bill would not change, is based on a screen's diagonal measurement. This bill would change what is or is not subject to the fee for CEDs with a screen size of less than 15 inches measured diagonally since the new base would be 9 square inches of surface rather than 4 inches measured diagonally. In other words, the \$8 fee would be imposed on a CED with a screen size greater than 9 square inches of surface, but less than 15 inches measured diagonally.

If this bill is enacted, retailers will have to identify products that have a screen size greater than nine square inches surface area in order to appropriately apply the fee. Since this is not a standard measurement for CEDs, it appears retailers would have to calculate the surface area. Larger retailers may have the ability to program the fee into its computer system for these identified CEDs; however, smaller retailers that don't have that ability would have to decide at the point of sale whether or not the screen size on the device is greater than nine square inches, which could lead to reporting errors.

Furthermore, this bill would complicate the Board's audit of eWaste feepayers. An audit generally covers a three-year period. With advancements in technology occurring much faster than before, new electronic devices are delivered to market at a rapid rate. The life cycle of electronic devices at market is typically shorter than three years. Without such products or specifications being available to determine the screen surface area, it may be difficult to determine if the fee was appropriately collected on CEDs with a screen size of less than 15 inches measured diagonally.

COST ESTIMATE

Some administrative costs may be incurred in revising returns and publications, and answering inquires from the public. A detailed estimate of these costs is pending.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

According to the Board's Environmental Fees Division, the number of CEDs sold in calendar year 2009 with a screen size of between four inches diagonally to less than fifteen inches diagonally amounted to 5,713,028. We do not have any further breakout for screen sizes of nine square inches or less. Additionally, a screen size of nine square inches measures approximately 4 1/4 inches diagonally if the dimensions are 3 inches by 3 inches. However, if the dimensions are 2 1/2 inches by 3 1/2 inches (8 3/4 square inches), the diagonal measurement would be approximately 5 1/4 inches. Since the diagonal measurement is dependent on the dimensions of the device, it is difficult to determine the number of devices that may be impacted by this bill. Nonetheless, as an order of magnitude, we estimate that if 5% of the aforementioned 5.7 million covered electronic devices sold in 2009 are exempted by this bill, the revenue impact would amount to a revenue loss of \$2.3 million (5,713,028 x 5%=286,000 x \$8.00=\$2.3 million).

REVENUE SUMMARY

The estimated annual revenue loss from this bill would amount to \$2.3 million.

Analysis prepared by:	Cindy Wilson	916-445-6036	05/04/10
Revenue prepared by:	Bill Benson	916-445-0840	
Contact:	Margaret S. Shedd	916-322-2376	
Is			2611-1cw.doc

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.