

## **BILL ANALYSIS**

Senate Research Center  
79R4566 SMH-D

S.B. 564  
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Natural Resources  
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### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

The purpose of this legislation is to remedy the problem in Texas of the safe handling and disposal of obsolete electronic equipment.

Most electronic equipment contains toxic substances such as lead, mercury, cadmium, chromium, and beryllium. These substances are hazardous to humans and the environment and pose a direct threat to our health if not disposed of properly.

An estimated 110 million computers and televisions are expected to become obsolete in Texas between 2006 and 2015. These electronics contain more than 5 billion pounds of toxins. Proper handling of these materials would cost Texas approximately \$606 million over that time period. No state money has been allocated to fund any programs addressing this issue.

In addition, few electronic recycling programs exist in Texas. As a result, some individuals and small generators store obsolete electronic equipment in basements, garages, offices, and shops, while others dispose of electronics in landfills or illegally dump the equipment. Furthermore, much of the electronic waste sent to recyclers is actually shipped to developing countries, where the waste is neither recycled nor disposed of properly.

As proposed, S.B. 564 requires electronics producers to be responsible for their products, through recycling and safe disposal of obsolete electronic equipment.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 361, Health and Safety Code, by adding Subchapter X, as follows:

#### **SUBCHAPTER X. ELECTRONIC EQUIPMENT**

Sec. 361.851. DEFINITIONS. Defines "electronic equipment," "electronic equipment waste," "historical waste," "orphan waste," "plan," "producer," "recycling," and "reuse."

Sec. 361.852. COMMISSION POWERS AND DUTIES. Requires the Texas Commission on Environmental Quality (commission) to take certain measures regarding the implementation and amendment of this subchapter.

Sec. 361.853. PLAN APPROVAL AND IMPLEMENTATION REQUIRED. Prohibits a producer from selling or reselling electronic equipment in this state unless the commission approves a plan submitted by the producer under this subchapter and the producer implements the approved plan.

Sec. 361.854. CONTENTS OF PLAN. Sets forth the required contents of a plan under this subchapter.

Sec. 361.855. FINANCIAL RESPONSIBILITY OF PRODUCERS. (a) Requires each producer of electronic equipment sold or resold in this state to implement a program for financing the environmentally sound collection, treatment, recovery, reuse, recycling, and disposition of certain equipment and wastes.

(b) Authorizes producers to satisfy the requirements of this section individually or in cooperation with other producers.

(c) Authorizes the plan to require consumers and other electronic equipment end users to deliver electronic equipment waste into the collection system, although a producer is encouraged to provide in the plan for direct collection or reverse delivery systems. Requires the plan to permit consumers to return electronic equipment waste without charge.

Sec. 361.856. PRODUCER'S SHARE OF ORPHAN AND HISTORICAL WASTE. (a) Provides that a producer's share of orphan waste and historical waste derived from electronic equipment of a type sold by the producer is proportional to the producer's share of the market for that type of equipment at the time waste management costs are incurred.

(b) Requires the commission to determine annually the market share of each producer for purposes of this section.

Sec. 361.857. LABELING OF EQUIPMENT. Requires each producer of electronic equipment sold or resold in this state to mark or label the equipment to provide consumers and other end users with certain information.

Sec. 361.858. CONSUMER EDUCATION PLAN. Requires each producer of electronic equipment sold or resold in this state to implement a consumer education plan designed to ensure that consumers and other end users of electronic equipment understand certain information regarding electronic equipment wastes.

Sec. 361.859. PROVISION OF INFORMATION TO RECYCLERS AND PROCESSORS. (a) Requires a producer's plan to require the producer to demonstrate that the producer will take adequate measures to provide information to recyclers and processors of the producer's electronic equipment.

(b) Requires the producer, not later than the first anniversary of the date a producer begins selling or reselling electronic equipment in this state, to provide to recyclers and processors information regarding certain specified matters for purposes of end-of-life treatment of the equipment.

Sec. 361.860. ENVIRONMENTAL PERFORMANCE REQUIREMENTS. (a) Provides that, for orphan and historical waste, a producer is responsible for demonstrating a certain degree of progress by specified deadlines.

(b) Provides that, for electronic equipment waste other than orphan or historical waste, a producer is responsible for demonstrating a certain degree of progress by specified deadlines.

Sec. 361.861. RESTRICTIONS ON USE OF PRISON LABOR. Prohibits a plan from including reliance on prison labor unless all incarcerated workers involved in the processing and recycling of electronic equipment waste are provided with certain appropriate compensation and certain protections afforded by state law.

Sec. 361.862. PROHIBITION ON EXPORTING ELECTRONIC EQUIPMENT WASTE. Requires a plan to prohibit the export of electronic equipment waste to any country that is not a member of the Organization for Economic Cooperation and Development.

Sec. 361.863. SUBMISSION, REVIEW, AND APPROVAL OF PLAN. (a) Requires a producer that desires to sell or resell electronic equipment in this state to submit a plan to

the commission for review. Requires the plan to be accompanied by an application fee in an amount determined by the commission to be sufficient to cover the cost of reviewing the plan.

(b) Requires the commission to review a plan submitted under this section. Requires the commission, if the commission determines that the plan does not meet the requirements of this subchapter, to advise the producer of any necessary amendments to the plan and provide the producer an opportunity to submit an amended plan.

(c) Requires the commission to approve a plan if the plan meets the requirements of this subchapter.

Sec. 361.864. RESTRICTIONS ON HAZARDOUS MATERIALS. (a) Prohibits a producer from selling electronic equipment in this state that contains certain materials.

(b) Authorizes the commission by order to allow a producer to sell electronic equipment in this state that contains a substance prohibited by Subsection (a) for a period specified by the commission if the producer demonstrates that it is not technically possible to produce the type of electronic equipment in question without using that substance.

(c) Authorizes the commission to rescind an order issued under Subsection (b) if the commission subsequently determines that it is technically possible to produce the type of electronic equipment in question without using the substance in question.

Sec. 361.865. WORKER SAFETY AND HEALTH PROTECTIONS. Requires an owner or operator of a facility used to collect, recover, or recycle electronic equipment waste to take certain precautionary measures as part of a plan to protect the health and safety of the persons employed at the facility.

Sec. 361.866. STATE PURCHASING AND LEASING. Requires each state agency to adopt certain policies in regards to electronic equipment waste.

Sec. 361.867. REPORTS. (a) Requires each producer to submit an annual report to the commission detailing implementation of the producer's plan and the producer's compliance with this subchapter.

(b) Requires the annual report to document that the implementation of the plan has not resulted in the export of electronic equipment waste to any country that is not a member of the Organization for Economic Cooperation and Development.

(c) Requires the commission to review the report not later than the 180th day after the date the report is submitted. Requires the commission, if the commission determines that the producer is not in compliance with this subchapter, to notify the producer not later than the end of the following quarter. Authorizes the commission, if the producer fails to comply with this subchapter by the end of the quarter following the quarter in which the notice is given, to take action to enforce this subchapter.

(d) Requires the commission to post certain information on the commission's Internet website relating to annual reports required under this section and implementation of a producer's plan.

Sec. 361.868. BAN ON INCINERATION OR DISPOSAL IN LANDFILL. (a) Prohibits electronic equipment and electronic equipment waste from being disposed of in a landfill, incinerator, or cement kiln or used for another form of energy generation dependent on combustion of the waste.

(b) Provides that this section applies to whole units of electronic equipment waste as well as to the constituent components or materials from which the units are made.

Sec. 361.869. IMMUNITY FROM LIABILITY. Provides that an owner or operator of a landfill who disposes of electronic equipment or electronic equipment waste in a landfill is immune from liability under this code or the Water Code for disposing of the electronic equipment or electronic equipment waste in violation of this subchapter under certain circumstances.

SECTION 2. Amends Subchapter E, Chapter 7, Water Code, by adding Section 7.1855, as follows:

Sec. 7.1855. KNOWING UNAUTHORIZED DISPOSAL OF ELECTRONIC EQUIPMENT OR ELECTRONIC EQUIPMENT WASTE. (a) Provides that a person commits an offense if the person knowingly disposes of electronic equipment or electronic equipment waste in a manner that violates Subchapter X, Chapter 361, Health and Safety Code.

(b) Classifies an offense under this section as a Class C misdemeanor.

SECTION 3. (a) Requires each producer who is engaged in the sale or resale of electronic equipment in this state on September 1, 2005, to follow certain procedural guidelines.

(b) Requires each state agency to adopt policies under Section 361.866, Health and Safety Code, as added by this Act, not later than March 1, 2006.

SECTION 4. (a) Provides that except as otherwise provided by this section, this Act takes effect September 1, 2005.

(b) Provides that Section 361.864, Health and Safety Code, as added by this Act, takes effect January 1, 2008.

(c) Provides that Sections 361.868 and 361.869, Health and Safety Code, and Section 7.1855, Water Code, as added by this Act, take effect September 1, 2007.