

SENATE FILE 72
BY BOLKCOM

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the recycling and disposal of cell phones,
2 providing penalties, and providing an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 72
NAT. RES. & ENVIRONMENT

1 Section 1. NEW SECTION. 455D.10C CELL PHONE RECYCLING
2 AND DISPOSAL.

3 1. As used in this section, unless the context otherwise
4 requires:

5 a. "Cell phone" means a wireless telephone device that is
6 designed to send or receive transmissions through a cellular
7 radiotelephone service, as defined in 47 C.F.R., and includes
8 the rechargeable battery that may be connected to the cell
9 phone. "Cell phone" does not include a wireless telephone
10 device that is integrated into the electrical architecture of
11 a motor vehicle.

12 b. "Distributor" means a person who sells a cell phone to
13 a retailer.

14 c. "Retailer" means a person who sells a cell phone in the
15 state to a consumer, including a manufacturer of a cell phone
16 who sells the cell phone directly to a consumer.

17 d. "Sell", "sale", or "sold" means a transfer for
18 consideration of title or of the right to use, by lease or
19 sales contract, including, but not limited to, transactions
20 conducted through sales outlets, catalogs, or the internet or
21 any other similar electronic means, but does not include a
22 wholesale transaction between a consumer and a distributor or
23 a retailer.

24 e. "Used cell phone" means a cell phone that has been
25 previously used and is made available, by a consumer, for
26 reuse, recycling, or proper disposal.

27 2. A retailer of cell phones sold in this state shall have
28 in place a system for the acceptance and collection of used
29 cell phones for reuse, recycling, or proper disposal. The
30 department shall define proper disposal by rule. The system
31 shall include, at a minimum, all of the following elements:

32 a. At no cost to the consumer, a retailer shall accept
33 from a consumer a used cell phone that the retailer previously
34 sold to the consumer. A retailer may require proof of
35 purchase.

1 b. At no cost to the consumer, a retailer shall accept a
2 used cell phone from a consumer who is purchasing a new cell
3 phone from that retailer.

4 c. At no cost to the consumer and at the time of delivery,
5 if a retailer delivers a cell phone directly to a consumer in
6 this state, a retailer shall accept from the consumer a used
7 cell phone.

8 d. A retailer shall make information available to
9 consumers about cell phone recycling opportunities provided by
10 the retailer and encourage consumers to utilize those
11 opportunities. The information may be made available by any
12 of the following means:

13 (1) Signage that is prominently displayed and easily
14 visible to the consumer.

15 (2) Written materials provided to the consumer at the time
16 of purchase or delivery, or both.

17 (3) Reference to the cell phone recycling opportunity in
18 retailer advertising or other promotional materials, or both.

19 (4) Direct communications with the consumer at the time of
20 purchase.

21 3. A retailer shall not sell a cell phone to a consumer in
22 this state unless the retailer complies with subsection 2.

23 4. The department shall provide information on the
24 internet regarding the recycling rate for cell phones.

25 5. a. A state agency that purchases or leases cell phones
26 shall require each prospective bidder for such purchase or
27 lease to certify that the bidder and the bidder's agent,
28 subsidiary, partner, joint venturer, and subcontractor for the
29 procurement have complied with this section or to demonstrate
30 that this section is inapplicable to all lines of business
31 engaged in by the bidder, and the bidder's agent, subsidiary,
32 partner, joint venturer, or subcontractor. The failure of a
33 prospective bidder to provide certification as required under
34 this subsection shall disqualify the bid. The bid
35 solicitation documents shall specify that a prospective bidder

1 is required to cooperate fully in providing reasonable access
2 to records and documents that show compliance with this
3 section.

4 b. A person awarded a contract by a state agency that is
5 found to be in violation of this section is subject to all of
6 the following:

7 (1) The contract shall be voided by the state agency to
8 which the equipment, materials, or supplies were provided.

9 (2) The contractor is ineligible to bid on any state
10 contract for a period of three years.

11 (3) The contractor shall repay all money and property
12 received under the contract.

13 6. A person violating a provision of this section is
14 subject to a civil penalty of not more than one hundred
15 dollars per day of violation.

16 Sec. 2. EFFECTIVE DATE. This bill takes effect July 1,
17 2006.

18 EXPLANATION

19 This bill relates to the recycling and disposal of cell
20 phones.

21 The bill provides that a retailer of cell phones sold in
22 this state shall have in place a system for the acceptance and
23 collection of used cell phones for reuse, recycling, or proper
24 disposal. The bill provides that the department of natural
25 resources shall define proper disposal. The bill provides
26 that the system shall include, at a minimum, all of the
27 following elements:

28 1. At no cost to the consumer, a retailer shall accept
29 from a consumer a used cell phone that the retailer previously
30 sold to the consumer. A retailer may require proof of
31 purchase.

32 2. At no cost to the consumer, a retailer shall accept a
33 used cell phone from a consumer who is purchasing a new cell
34 phone from that retailer.

35 3. At no cost to the consumer and at the time of delivery,

1 if a retailer delivers a cell phone directly to a consumer in
2 this state, the retailer shall accept from the consumer a used
3 cell phone.

4 4. Through the use of signage, written materials, direct
5 communication, or other means, a retailer shall make
6 information available to consumers about cell phone recycling
7 opportunities provided by the retailer and encourage consumers
8 to utilize those opportunities.

9 The bill provides that a retailer shall not sell a cell
10 phone to a consumer in this state unless the retailer complies
11 with the provisions of the bill.

12 The bill provides that the department shall provide
13 information on the internet regarding the recycling rate for
14 cell phones.

15 The bill provides that a state agency that purchases or
16 leases cell phones shall require each prospective bidder to
17 certify that the bidder and the bidder's agent, subsidiary,
18 partner, joint venturer, and subcontractor for the procurement
19 have complied with the bill or to demonstrate that the
20 provisions of the bill are inapplicable to all lines of
21 business engaged in by the bidder, and the bidder's agent,
22 subsidiary, partner, joint venturer, or subcontractor. The
23 bill provides that the failure of a prospective bidder to
24 provide certification as required shall disqualify the bid.
25 The bill provides that a person awarded a contract by a state
26 agency that is found to be in violation of the provisions of
27 the bill is subject to a voiding of the contract,
28 ineligibility to bid on any state contract for a period of
29 three years, and repayment of all money and property received
30 under the contract.

31 The bill provides that a person violating a provision of
32 the bill is subject to a civil penalty of not more than \$100
33 per day of violation.

34 The bill takes effect July 1, 2006.

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