

AMENDED IN SENATE JULY 8, 2004

AMENDED IN SENATE JUNE 16, 2004

AMENDED IN ASSEMBLY MAY 20, 2004

AMENDED IN ASSEMBLY APRIL 20, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2901**

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**Introduced by Assembly Members Pavley and Kehoe**  
**(Coauthors: Assembly Members Hancock, Jackson, Koretz,**  
**Levine, and Lieber)**  
~~(Coauthor: Senator Kuehl)~~  
*(Coauthors: Senators Kuehl and Romero)*

February 20, 2004

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An act to add Chapter 8.6 (commencing with Section 42490) to Part 3 of Division 30 of the Public Resources Code, relating to ~~and~~ solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2901, as amended, Pavley. Solid waste: cell phones: recycling.

Existing law requires the California Integrated Waste Management Board to administer state programs to recycle various specified materials, including the Electronic Waste Recycling Act of 2003, which governs certain electronic devices with display screens greater than 4 inches in size.

This bill would enact the Cell Phone Recycling Act of 2004 and would make it unlawful to sell, on and after July 1, 2006, a cell phone

in this state to a consumer, as defined, unless the retailer of that cell phone complies with the act.

The bill would require a retailer selling a cell phone in this state to have in place, by July 1, 2006, a system for the acceptance, *and* collection, ~~reuse, and recycling or proper disposal~~ of used cell phones *for reuse, recycling, or proper disposal*. The bill would require the system to include specified elements.

The bill would require the Department of Toxic Substances Control on July 1, 2007, and each July 1 thereafter, to post on its Web site an estimated California recycling rate for cell phones, as specified. The bill would impose requirements upon state agencies that purchase or lease cell phones regarding a certification of compliance with the act by prospective bidders. The bill would contain a severability clause.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 8.6 (commencing with Section 42490)  
2 is added to Part 3 of Division 30 of the Public Resources Code, to  
3 read:

4  
5 CHAPTER 8.6. CELL PHONE RECYCLING ACT OF 2004

6  
7 Article 1. General Provisions

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9 42490. This act shall be known, and may be cited as, the Cell  
10 Phone Recycling Act of 2004.

11 42490.1. The Legislature finds and declares all of the  
12 following:

13 (a) The purpose of this chapter is to enact a comprehensive and  
14 innovative system for the reuse, recycling, and proper and legal  
15 disposal of used cell phones.

16 (b) It is the further purpose of this chapter to enact a law that  
17 establishes a program that is convenient for consumers and the  
18 public to return, recycle, and ensure the safe and environmentally  
19 sound disposal of used cell phones, and providing a system that  
20 does not charge when a cell phone is returned.

21 (c) It is the intent of the Legislature that the cost associated with  
22 the handling, recycling, and disposal of used cell phones be the



1 responsibility of the producers and consumers of cell phones, and  
2 not local government or their service providers, state government,  
3 or taxpayers.

4 (d) In order to reduce the likelihood of illegal disposal of  
5 hazardous materials, it is the intent of this chapter to ensure that all  
6 costs associated with the proper management of used cell phones  
7 is internalized by the producers and consumers of cell phones at  
8 or before the point of purchase, and not at the point of discard.

9 (e) Manufacturers and retailers of cell phones and cell phone  
10 service providers, in working to achieve the goals and objectives  
11 of this chapter, should have the flexibility to partner with each  
12 other and with those private and nonprofit business enterprises that  
13 currently provide collection and processing services to develop  
14 and promote a safe and effective used cell phone recycling system  
15 for California.

16 (f) The producers of cell phones should reduce and, to the  
17 extent feasible, ultimately phase out the use of hazardous materials  
18 in cell phones.

19 (g) Cell phones, to the greatest extent feasible, should be  
20 designed for extended life, repair, and reuse.

21 (h) The purpose of this chapter is to provide for the safe, cost  
22 free, and convenient collection, *reuse*, and recycling of 100  
23 percent of the used cell phones discarded or offered for recycling  
24 in the state.

25 (i) In establishing a cost effective system for the recovery,  
26 reuse, recycling and proper disposal of used cell phones, it is the  
27 intent of the Legislature to encourage manufacturers, retailers and  
28 service providers to build on the retailer take-back systems  
29 initiated recently by some cell phone service providers.

30 (j) An estimated 5 percent of obsolete cell phones are currently  
31 being recycled through a mechanism, whereby private sector  
32 recyclers provide retailers with a postage paid box for mailing  
33 returned cell phones to the recycler at no cost to the retailers. In  
34 some instances, the scrap value of these used phones is sufficient  
35 for the recycler to either pay the retailer or make a financial  
36 contribution on behalf of the retailer to a nonprofit charity. It is the  
37 intent of the Legislature that this model system be substantially  
38 expanded as a result of the enactment of this act.  
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Article 2. Definitions

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42493. For the purposes of this chapter, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) “Cell phone” means a wireless telephone device that is designed to send or receive transmissions through a cellular radiotelephone service, as defined in Section 22.99 of Title 47 of the Code of Federal Regulations. A cell phone includes the rechargeable battery that may be connected to that cell phone. A cell phone does not include a wireless telephone device that is integrated into the electrical architecture of a motor vehicle.

(b) “Consumer” means a purchaser or owner of a cell phone. “Consumer” also includes a business, corporation, limited partnership, nonprofit organization, or governmental entity, but does not include an entity involved in a wholesale transaction between a distributor and retailer.

(c) “Department” means the Department of Toxic Substances Control.

(d) “Retailer” means a person who sells a cell phone in the state to a consumer, including a manufacturer of a cell phone who sells that cell phone directly to a consumer. A sale includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not include a sale that is a wholesale transaction with a distributor or retailer.

(e) (1) “Sell” or “sale” means a transfer for consideration of title or of the right to use, by lease or sales contract, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other, similar electronic means, but does not include a wholesale transaction with a distributor or a retailer.

(2) For purposes of this subdivision and subdivision (d), “distributor” means a person who sells a cell phone to a retailer.

(f) “Used cell phone” means a cell phone that is discarded or disposed of, and which the department determines, when discarded or disposed, would be a hazardous waste pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.



1 Article 3. Cell Phone Recycling

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3 42494. (a) On and after July 1, 2006, every retailer of cell  
4 phones sold in this state shall have in place a system for the  
5 ~~acceptance, collection, reuse, and recycling or proper disposal of~~  
6 ~~used cell phones.~~

7 ~~(b) A system for the acceptance, collection, reuse, and~~  
8 ~~recycling or proper disposal of used cell phones at a minimum~~  
9 ~~shall include all of the following elements: acceptance and~~  
10 ~~collection of used cell phones for reuse, recycling, or proper~~  
11 ~~disposal.~~

12 (b) A system for the acceptance and collection of used cell  
13 phones for reuse, recycling, or proper disposal shall, at a  
14 minimum, include all of the following elements:

15 (1) The take-back from the consumer of a used cell phone that  
16 the retailer sold or previously sold to the consumer, at no cost to  
17 that consumer. The retailer may require proof of purchase.

18 (2) The take-back of a used cell phone from a consumer who  
19 is purchasing a new cell phone from that retailer, at no cost to that  
20 consumer.

21 (3) If the retailer delivers a cell phone directly to a consumer  
22 in this state, the system provides the consumer, at the time of  
23 delivery, with a mechanism for the return of used cell phones for  
24 reuse, recycling, or proper disposal, at no cost to the consumer.

25 (4) Make information available to consumers about cell phone  
26 recycling opportunities provided by the retailer and encourage  
27 consumers to utilize those opportunities. This information may  
28 include, but is not limited to, one or more of the following:

29 (A) Point-of-purchase signage or display.

30 (B) Written materials provided to the consumer at the time of  
31 purchase or delivery, or both.

32 (C) Reference to the cell phone recycling opportunity in  
33 retailer advertising or other promotional materials, or both.

34 (D) Direct communications with the consumer at the time of  
35 purchase.

36 42495. On and after July 1, 2006, it is unlawful to sell a cell  
37 phone to a consumer in this state unless the retailer of that cell  
38 phone complies with this chapter.

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1 Article 4. Statewide Recycling Goals

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3 42496.4. On July 1, 2007, and each July 1, thereafter, the  
4 department shall post on its Web site an estimated California  
5 recycling rate for cell phones, the numerator of which shall be the  
6 estimated number of cell phones returned for recycling in  
7 California during the previous calendar year, and the denominator  
8 of which is the number of cell phones estimated to be sold in this  
9 state during the previous calendar year.

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11 Article 5. State Agency Procurement

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13 42498. (a) A state agency that purchases or leases cell phones  
14 shall require each prospective bidder, to certify that it, and its  
15 agents, subsidiaries, partners, joint venturers, and subcontractors  
16 for the procurement, have complied with this chapter and any  
17 regulations adopted pursuant to this chapter, or to demonstrate that  
18 this chapter is inapplicable to all lines of business engaged in by  
19 the bidder, its agents, subsidiaries, partners, joint venturers, or  
20 subcontractors.

21 (b) Failure to provide certification pursuant to this section shall  
22 render the prospective bidder and its agents, subsidiaries, partners,  
23 joint venturers, and subcontractors ineligible to bid on the  
24 procurement of cell phones.

25 (c) The bid solicitation documents shall specify that the  
26 prospective bidder is required to cooperate fully in providing  
27 reasonable access to its records and documents that evidence  
28 compliance with this chapter.

29 (d) Any person awarded a contract by a state agency that is  
30 found to be in violation of this section is subject to the following  
31 sanctions:

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

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

36 (3) If the Attorney General establishes in the name of the  
37 people of the State of California that any money, property, or  
38 benefit was obtained by a contractor as a result of violating this  
39 section, the court may, in addition to any other remedy, order the



1 disgorgement of the unlawfully obtained money, property, or  
2 benefit in the interest of justice.

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*Article 6. Effect of Act*

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6 42499. *This chapter shall not be construed to affect Chapter*  
7 *6.5 (commencing with Section 25100) of Division 20 of the Health*  
8 *and Safety Code, any regulation adopted pursuant to that chapter,*  
9 *or any obligation imposed on a person pursuant to that chapter,*  
10 *relating to cell phones or used cell phones.*

11 SEC. 3. The provisions of this act are severable. If any  
12 provision of this act or its application is held invalid, that invalidity  
13 shall not affect other provisions or applications that can be given  
14 effect without the invalid provision or application.

