

As Introduced

**129th General Assembly
Regular Session
2011-2012**

S. B. No. 253

Senator Lehner

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A B I L L

To enact sections 3734.92, 3734.921, 3734.922, 1
3734.923, 3734.924, 3734.925, 3734.926, 3734.927, 2
3734.928, and 3734.929 of the Revised Code to 3
establish a recycling program for covered 4
electronic devices, to create the Electronic Waste 5
Advisory Council to evaluate and make 6
recommendations and prepare a report concerning 7
recycling of those devices, and to terminate the 8
Council on July 1, 2015, by repealing section 9
3734.929 of the Revised Code on that date. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3734.92, 3734.921, 3734.922, 11
3734.923, 3734.924, 3734.925, 3734.926, 3734.927, 3734.928, and 12
3734.929 of the Revised Code be enacted to read as follows: 13

Sec. 3734.92. As used in sections 3734.92 to 3734.929 of the 14
Revised Code: 15

(A) "Collector" means a person who receives covered 16
electronic devices from consumers and arranges for the delivery of 17
the covered electronic devices to a recycler. 18

(B) "Computer" means a desktop computer, notebook computer, 19
computer monitor, or printer. "Computer" includes a peripheral 20

device, including a mouse or other similar pointing device or a 21
detachable or wireless keyboard. "Computer" does not include 22
either of the following: 23

(1) A personal digital assistant device or mobile telephone; 24

(2) A household appliance, including an appliance with a 25
central processing unit or a video display. 26

(C) "Computer take-back program" means a program that is 27
required under section 3734.923 of the Revised Code. 28

(D) "Consumer" means a person who purchases a covered 29
electronic device primarily for personal or small business 30
purposes in this state. 31

(E) "Covered computer" means a computer that was or will be 32
used primarily for personal or small business purposes in this 33
state. "Covered computer" does not include a device that is 34
functionally or physically a part of, connected to, or integrated 35
within a larger piece of equipment or system that is designed and 36
intended for use in an industrial, governmental, commercial, 37
research and development, or medical setting, including, but not 38
limited to, diagnostic, monitoring, or control products, medical 39
products approved under the "Federal Food, Drug, and Cosmetic 40
Act," 59 Stat. 1040 (1938), 21 U.S.C. 301 et seq., as amended, 41
equipment used for security, sensing, monitoring, antiterrorism, 42
or emergency services purposes, or equipment designed and intended 43
primarily for use by professional users. 44

(F) "Covered electronic device" means a covered computer or 45
covered video display device. 46

(G) "Covered electronic device take-back program" means a 47
computer take-back program or a video display device take-back 48
program. 49

(H) "Covered video display device" means a video display 50

device that was or will be used primarily for personal or small 51
business purposes in this state. "Covered video display device" 52
does not include a video display device that is functionally or 53
physically a part of, connected to, or integrated within a larger 54
piece of equipment or system that is designed and intended for 55
transportation or for use in an industrial, governmental, 56
commercial, research and development, or medical setting, 57
including, but not limited to, diagnostic, monitoring, or control 58
products, medical products approved under the "Federal Food, Drug, 59
and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C. 301 et seq., as 60
amended, equipment used for security, sensing, monitoring, 61
antiterrorism, or emergency services purposes, or equipment 62
designed and intended primarily for use by professional users. 63

(I) "Desktop computer" means an electronic, magnetic, 64
optical, electrochemical, or other high speed data processing 65
device to which all of the following apply: 66

(1) The device performs logical, arithmetic, and storage 67
functions for general purpose needs that are met through 68
interaction with multiple software programs contained in the 69
computer. 70

(2) The device is not designed to exclusively perform a 71
specific type of limited or specialized application. 72

(3) Human interface with the computer is achieved through a 73
stand-alone keyboard, a stand-alone monitor or other display unit, 74
and a stand-alone mouse or other pointing device. 75

(4) The device is designed for a single user. 76

(5) The device has a main unit that is intended to be 77
persistently located in a single location, often on a desk or on 78
the floor. 79

(J) "Manufacturer" means any of the following: 80

(1) A person who owns or who is licensed to use a brand with which a covered computer is labeled if the person sold more than fifty covered computers in the calendar year of the effective date of this section or a subsequent calendar year; 81
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(2) A person who owns or who is licensed to use a brand with which a covered video display device is labeled if the person sold more than fifty covered video display devices in the calendar year of the effective date of this section or a subsequent calendar year; 85
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(3) A person who imports into the United States a covered electronic device if the person who owns the brand does not do business in the United States, provided that the person who imports the covered electronic device sold or imported more than fifty covered computers in the calendar year of the effective date of this section or in a subsequent calendar year or sold or imported more than fifty covered video display devices in the calendar year of the effective date of this section or a subsequent calendar year; 90
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(4) A person who contractually assumes the responsibilities and obligations described in division (J)(1) or (2) of this section. 99
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(K) "Notebook computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device to which all of the following apply: 102
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(1) The device performs logical, arithmetic, and storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer. 105
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(2) The device is not designed to exclusively perform a specific type of limited or specialized application. 109
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(3) The device achieves human interface through a keyboard, a 111

video display greater than four inches in size, and a mouse or 112
other pointing device, all of which are contained within the 113
construction of the unit that comprises the computer. 114

(4) The device is able to be carried as one unit by an 115
individual. 116

(5) The device is able to use an external or internal power 117
source, including a battery. 118

(6) The device allows for the attachment of supplemental 119
stand-alone interface devices. 120

"Notebook computer" does not include a portable handheld 121
calculator, a portable digital assistant, or a similar specialized 122
device. 123

(L) "Printer" means a device that prints using a print 124
technology such as laser, electrographic, ink jet, dot matrix, 125
thermal, or digital sublimation and that is designed to be placed 126
on a desk or other work surface. "Printer" includes a 127
multifunction or all-in-one device that in addition to printing 128
may perform copying, scanning, faxing, or a combination of part or 129
all of those functions. "Printer" does not include a 130
floor-standing device that prints or a device that prints that has 131
an optional floor stand, a point of sale receipt printer, a 132
calculator with printing capabilities, a label maker, or a device 133
that prints that is embedded within a product that is not a 134
covered computer. 135

(M) "Recycler" means a person who as a principal component of 136
business operations acquires covered electronic devices and sorts 137
and processes the covered electronic devices in order to 138
facilitate recycling or resource recovery techniques. "Recycler" 139
does not include a collector, hauler, or electronics shop. 140

(N) "Retailer" means a person who sells a covered electronic 141
device to a consumer at a sales outlet, by mail order, via the 142

internet, or by any other means regardless of whether the person 143
has a physical presence in this state. "Retailer" does not include 144
a person who, in the ordinary course of business, offers to lease 145
or arranges for the leasing of covered electronic devices under a 146
lease, rental, or rental-purchase agreement, but does not sell 147
covered electronic devices. 148

(O) "Small business" means a business that has ten or fewer 149
employees. 150

(P) "Video display device" means an electronic device with a 151
viewable screen size that is greater than four inches measured 152
diagonally, that contains a tuner, and that is capable of 153
receiving and displaying television or video programming via a 154
broadcast, cable, or satellite. "Video display device" includes, 155
but is not limited to, a direct view or projection television in 156
which the display technology is a cathode ray tube, plasma, liquid 157
crystal display, digital light processing, liquid crystal on 158
silicon, silicon crystal reflective display, light emitting diode, 159
or similar technology. "Video display device" does not include a 160
computer regardless of whether the computer includes a tuner or a 161
household appliance regardless of whether the appliance includes a 162
video display. 163

(Q) "Video display device take-back program" means a program 164
that is required under section 3734.924 of the Revised Code. 165

Sec. 3734.921. (A) Not later than thirty days after the end 166
of the state's fiscal year, a manufacturer who sells or offers for 167
sale in this state new covered electronic devices shall register 168
with the director of environmental protection on a form prescribed 169
and provided by the director. The registration form shall require 170
a manufacturer to provide all of the following: 171

(1) The name, address, and telephone number of the 172
manufacturer; 173

<u>(2) Each brand name under which the manufacturer sells or</u>	174
<u>offers for sale covered electronic devices in this state;</u>	175
<u>(3) Information concerning the manufacturer's covered</u>	176
<u>electronic device take-back program that includes all of the</u>	177
<u>following:</u>	178
<u>(a) Information that is provided to consumers that describes</u>	179
<u>how and where to return covered electronic devices that are</u>	180
<u>labeled with the manufacturer's name or brand label;</u>	181
<u>(b) A detailed statement that describes the means by which</u>	182
<u>the information required in division (A)(3)(a) of this section is</u>	183
<u>provided to consumers, including any web site addresses that may</u>	184
<u>be used;</u>	185
<u>(c) Beginning with the submission of the first registration</u>	186
<u>after the implementation of a covered electronic device take-back</u>	187
<u>program, a report that describes the implementation of that</u>	188
<u>program during the preceding fiscal year. The report shall include</u>	189
<u>all of the following:</u>	190
<u>(i) The total weight of the covered electronic devices</u>	191
<u>received under the take-back program from consumers during the</u>	192
<u>preceding fiscal year;</u>	193
<u>(ii) The processes and methods used to recycle or reuse the</u>	194
<u>covered electronic devices that are received from consumers;</u>	195
<u>(iii) The identity of all collectors with whom the</u>	196
<u>manufacturer has entered into an agreement for the collection of</u>	197
<u>covered electronic devices received from consumers;</u>	198
<u>(iv) The identity of all recyclers with whom the manufacturer</u>	199
<u>has entered into an agreement for the recycling of covered</u>	200
<u>electronic devices received from consumers. The identity of a</u>	201
<u>recycler shall include the addresses of each of the recycler's</u>	202
<u>recycling facilities that are located in this state, if</u>	203

applicable. 204

(B) A manufacturer shall include with a registration 205
submitted under this section an annual fee of not more than five 206
thousand dollars as established in rules adopted under section 207
3734.926 of the Revised Code. However, if the balance of the 208
electronic waste recycling fund created in section 3734.928 of the 209
Revised Code is greater than six hundred thousand dollars on the 210
thirty-first day of December of any year, the director shall not 211
collect the annual fee for the subsequent fiscal year. The 212
director shall transmit the money from the fees collected under 213
this section to the treasurer of state who shall deposit the money 214
in the state treasury to the credit of the electronic waste 215
recycling fund. 216

(C) A registration is effective on receipt by the director, 217
provided that the registration is complete and includes the fee 218
required in division (B) of this section. If a manufacturer's 219
registration does not satisfy the requirements of this section, 220
the director shall notify the manufacturer of the deficiency. If 221
the manufacturer fails to correct a deficiency within sixty days 222
after notice of the deficiency is sent by the director, the 223
director may deny or revoke the manufacturer's registration. 224

(D) The director shall maintain on the environmental 225
protection agency's web site a list of registered manufacturers of 226
covered computers and a list of registered manufacturers of 227
covered video display devices together with the web site addresses 228
at which each manufacturer provides information regarding 229
recycling covered electronic devices, if any. 230

(E) Information that is provided under division (A)(3)(c)(iv) 231
of this section is not subject to section 149.43 of the Revised 232
Code unless required by a court order. 233

(F) Not later than October 1, 2013, and every two years after 234

that date, the director shall submit a report to the speaker of 235
the house of representatives and the president of the senate that 236
provides an assessment of the adequacy of the maximum amount of 237
the fee that may be charged under this section and 238
recommendations, if any, to modify the maximum amount of the fee. 239

Sec. 3734.922. (A) Beginning April 1, 2013, a manufacturer 240
shall not sell or offer for sale at a sales outlet, by mail order, 241
via the internet, or by any other means in this state a new 242
covered electronic device unless all of the following are 243
satisfied: 244

(1) The covered electronic device is labeled with the 245
manufacturer's name or a brand label that is owned by or that is 246
licensed for use by the manufacturer. 247

(2) The manufacturer's name is on the applicable registration 248
list that is maintained by the director of environmental 249
protection as required in section 3734.921 of the Revised Code. 250

(3) If the covered electronic device is a covered computer, 251
the manufacturer has established a computer take-back program. 252

(4) If the covered electronic device is a covered video 253
display device, the manufacturer has established a video display 254
device take-back program. 255

(B) A retailer shall not sell or offer for sale in this state 256
a new covered electronic device that is purchased by the retailer 257
from a manufacturer of the new covered electronic device on or 258
after April 1, 2013, unless the manufacturer is on the applicable 259
registration list that is maintained by the director as required 260
in section 3734.921 of the Revised Code. 261

Sec. 3734.923. (A) Beginning April 1, 2013, a manufacturer of 262
a covered computer shall establish a computer take-back program 263
that satisfies all of the following: 264

(1) The manufacturer of a covered computer or the manufacturer's designee accepts from a consumer the manufacturer's covered computer that has reached the end of its useful life for the consumer. However, a manufacturer is not required to accept more than seven covered computers from a single consumer on a single day. Division (A)(1) of this section shall not be construed in a manner that impairs the obligation of a contract under which a person agrees to conduct a computer take-back program on behalf of a manufacturer. 265
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(2) The manufacturer or the manufacturer's designee does not charge a fee when a consumer returns a covered computer to the manufacturer of the covered computer. The manufacturer or the manufacturer's designee may charge a fee when a consumer returns another manufacturer's covered computer to the manufacturer if in exchange for the fee the manufacturer or the manufacturer's designee provides goods or services in an amount equal to or greater than the amount of the fee. The manufacturer or the manufacturer's designee also may offer to accept another manufacturer's covered computer at no charge with the purchase of a similar covered computer from the manufacturer. 274
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(3) The collection of a covered computer is reasonably convenient for, available to, and designed to meet the needs of consumers in this state. Collection methods that alone or in combination satisfy division (A)(3) of this section include methods for a consumer to return a covered computer by one or more of the following means: 285
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(a) Mail or common carrier; 291

(b) Deposit at a local physical collection site that is open and staffed on a continuing basis; 292
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(c) Deposit at a periodic local collection event; 294

(d) Deposit at a retailer. 295

(4) The manufacturer of a covered computer provides to consumers information on how and where to return a covered computer, including, but not limited to, information on the manufacturer's web site concerning the collection, recycling, and reuse of a covered computer. The manufacturer also may include information concerning the collection, recycling, and reuse of a covered computer via a toll-free telephone number or in the packaging for or with other materials that accompany the manufacturer's covered computers when the covered computers are sold. 296
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(5) The manufacturer recycles or arranges for the recycling of the covered computers that are collected in accordance with division (A)(1) or (2) of this section. 306
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(B) For purposes of divisions (A)(1), (2), and (5) of this section, a manufacturer may arrange for the collection and recycling of covered computers by another person. 309
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(C) For purposes of division (A) of this section, a manufacturer may implement a covered computer take-back program in conjunction with other manufacturers. 312
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(D) Except to the extent otherwise provided by contract, a manufacturer, recycler, collector, or retailer is not liable for the loss or use of data or other information from an information storage device of a covered electronic device collected or recycled under sections 3734.92 to 3734.929 of the Revised Code. 315
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Sec. 3734.924. (A) Beginning April 1, 2013, a manufacturer of a covered video display device shall establish a video display device take-back program that satisfies all of the following: 320
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(1) The manufacturer of a covered video display device or the manufacturer's designee accepts from a consumer any covered video display device that has reached the end of its useful life for the 323
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consumer regardless of the type or brand. However, a manufacturer 326
is not required to accept more than seven covered video display 327
devices from a single consumer on a single day. 328

(2) The manufacturer or the manufacturer's designee does not 329
charge a fee when a consumer returns a covered video display 330
device to the manufacturer. 331

(3) The collection of a covered video display device is 332
reasonably convenient for, available to, and designed to meet the 333
needs of consumers in this state. Collection methods that alone or 334
in combination satisfy division (A)(3) of this section include 335
methods for a consumer to return a covered video display device by 336
one or more of the following means: 337

(a) Mail or common carrier; 338

(b) Deposit at a local physical collection site that is open 339
and staffed on a continuing basis; 340

(c) Deposit at a periodic local collection event; 341

(d) Deposit at a retailer. 342

(4) The manufacturer of a covered video display device 343
provides to consumers information on how and where to return a 344
covered video display device, including, but not limited to, 345
information on the manufacturer's web site concerning the 346
collection, recycling, and reuse of a covered video display 347
device. The manufacturer also may include information concerning 348
the collection, recycling, and reuse of a covered video display 349
device via a toll-free telephone number or in the packaging for or 350
with other materials that accompany the manufacturer's covered 351
video display devices when the covered video display devices are 352
sold. 353

(5) The manufacturer recycles or arranges for the recycling 354
of the covered video display devices that are collected in 355

accordance with division (A)(1) of this section. As a nonbinding 356
goal, a manufacturer who is required to conduct a video display 357
device take-back program shall recycle annually sixty per cent of 358
the total weight of covered video display devices sold by the 359
manufacturer in this state during the previous state fiscal year. 360
Information that is compiled for the purposes of division (A)(5) 361
of this section is not subject to section 149.43 of the Revised 362
Code unless required by a court order. 363

(B) For purposes of divisions (A)(1) and (5) of this section, 364
a manufacturer may arrange for the collection and recycling of 365
covered video display devices by another person. 366

(C) For purposes of division (A) of this section, a 367
manufacturer may implement a covered video display device 368
take-back program in conjunction with other manufacturers. 369

Sec. 3734.925. (A) All covered electronic devices that are 370
collected under sections 3734.92 to 3734.929 of the Revised Code 371
shall be collected and recycled in a manner that complies with all 372
applicable federal, state, and local laws. 373

(B) In complying with the requirements established in 374
sections 3734.92 to 3734.929 of the Revised Code, a manufacturer 375
shall utilize recyclers that use responsible recycling practices 376
for use in accredited certification programs, the e-stewards 377
standard for responsible recycling and reuse of electronics, or 378
other environmental and recycling standards that may be adopted by 379
the director of environmental protection. 380

(C) A manufacturer shall not utilize a recycler that employs 381
or contracts with an entity that employs laborers who are 382
prisoners serving a term in any state or federal correctional 383
institution to process covered electronic devices. Additionally, a 384
recycler operating in this state shall not employ or contract with 385
an entity that employs laborers who are prisoners serving a term 386

in any state or federal correctional institution to process 387
covered electronic devices. 388

Sec. 3734.926. The director of environmental protection shall 389
adopt rules in accordance with Chapter 119. of the Revised Code 390
establishing procedures for the submission of manufacturer 391
registrations under section 3734.921 of the Revised Code, the 392
amount of the manufacturer registration fee required under that 393
section, criteria for approval of computer and video display 394
device take-back programs, and any other requirements that the 395
director considers necessary or appropriate in order to implement 396
sections 3734.92 to 3734.929 of the Revised Code. 397

Sec. 3734.927. Sections 3734.92 to 3734.929 of the Revised 398
Code do not prohibit either of the following: 399

(A) A manufacturer, recycler, or collector from offering 400
fee-based premium services regarding the collection of covered 401
electronic devices to persons who desire such premium services; 402

(B) A manufacturer, recycler, or collector from shipping a 403
covered electronic device to another state for purposes of 404
recycling the covered electronic device. 405

Sec. 3734.928. The electronic waste recycling fund is created 406
in the state treasury. All fees collected under section 3734.923 407
of the Revised Code shall be credited to the fund. Investment 408
earnings of the fund shall be credited to the fund. Money in the 409
fund shall be used by the director of environmental protection to 410
administer and enforce sections 3734.92 to 3734.929 of the Revised 411
Code. 412

Sec. 3734.929. (A) There is created the electronic waste 413
advisory council consisting of the following members: 414

<u>(1) The director of environmental protection or the</u>	415
<u>director's designee;</u>	416
<u>(2) Four members appointed by the president of the senate as</u>	417
<u>follows:</u>	418
<u>(a) One member representing manufacturers of covered video</u>	419
<u>display devices;</u>	420
<u>(b) One member representing recyclers of covered computers or</u>	421
<u>covered video display devices;</u>	422
<u>(c) One member representing an association of computer</u>	423
<u>manufacturers and video display device manufacturers;</u>	424
<u>(d) One member who is a member of the senate.</u>	425
<u>(3) Four members appointed by the speaker of the house of</u>	426
<u>representatives as follows:</u>	427
<u>(a) One member representing manufacturers of covered</u>	428
<u>computers;</u>	429
<u>(b) One member representing retailers of covered computers or</u>	430
<u>covered video display devices;</u>	431
<u>(c) One member representing a single county solid waste</u>	432
<u>management district established under Chapter 3734. of the Revised</u>	433
<u>Code;</u>	434
<u>(d) One member who is a member of the house of</u>	435
<u>representatives.</u>	436
<u>(4) Two members appointed by the governor as follows:</u>	437
<u>(a) One member who represents a statewide conservation</u>	438
<u>organization;</u>	439
<u>(b) One member who represents the private solid waste</u>	440
<u>disposal industry.</u>	441
<u>(B) Appointments to the council shall be made not later than</u>	442
<u>thirty days after the effective date of this section. If a vacancy</u>	443

occurs on the council, the vacancy shall be filled in the same 444
manner as the original appointment. A member of the council may be 445
removed by the person who appointed the member for malfeasance, 446
misfeasance, nonfeasance, or any other good cause. 447

The council members who are members of the senate and of the 448
house of representatives shall serve as co-chairpersons. The 449
council shall elect from its members any other officers that it 450
considers necessary or appropriate. A majority of the members of 451
the council constitutes a quorum for any matter that is before the 452
council. 453

The co-chairpersons shall call the first meeting of the 454
council. The council shall meet at least quarterly or more often 455
at the call of the co-chairpersons or if requested by two or more 456
members of the council. 457

Members of the council shall serve without compensation. 458

Serving as a member of the council does not constitute 459
holding a public office or position of employment under the laws 460
of this state and does not constitute grounds for removal of 461
public officers or employees from their offices or positions of 462
employment. 463

(C) The council shall prepare a report that evaluates 464
computer take-back programs and video display device take-back 465
programs and make recommendations to improve the recycling of 466
covered electronic devices. In addition, the report shall evaluate 467
and make recommendations concerning all of the following: 468

(1) Whether a manufacturer's market share should be used to 469
determine the amount of video display devices that a manufacturer 470
is required to recycle annually; 471

(2) Whether a manufacturer that is implementing a take-back 472
program and recycles electronic waste in an amount greater than an 473
applicable amount that is provided for in sections 3734.92 to 474

3734.924 of the Revised Code should be granted credits, and, if credits should be granted, a determination of the lifespan of a credit, a determination of the transferability of a credit, and a description of how a credit system will operate; 475
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(3) Whether the nonbinding annual recycling goal that is established in section 3734.924 of the Revised Code for manufacturers of covered video display devices should be changed and whether such a goal should be mandatory; 479
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(4) The items that should be included in a mandatory take-back program, and, if new items are recommended, the recycling rates or amounts for each of the new items; 483
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(5) Whether and how a manufacturer should be fined or sanctioned for a violation of sections 3734.92 to 3734.924 of the Revised Code; 486
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(6) Whether the funding for the administration of sections 3734.92 to 3734.929 of the Revised Code is appropriate; 489
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(7) Whether a program should be established to recognize a manufacturer that implements a recycling program that recycles products in addition to covered electronic devices that are required to be recycled under sections 3734.92 to 3734.924 of the Revised Code or that recycles covered electronic devices in an amount greater than an amount that is established in those sections; 491
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(8) Whether a system should be developed to collect covered electronic devices that otherwise are not collected by a manufacturer; 498
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(9) Whether recycling data, such as the amount of covered electronic devices collected by collectors, should be maintained; 501
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(10) Whether a grant program should be established to expand recycling and recovery programs for covered electronic devices and 503
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to provide consumer education for such recycling and recovery 505
programs; 506

(11) Whether a ban on the disposal of covered electronic 507
devices in solid waste landfills in this state is appropriate. 508

(D) Not later than April 1, 2015, the council shall submit 509
the report to the governor, the president of the senate, and the 510
speaker of the house of representatives. 511

Section 2. That section 3734.929 of the Revised Code is 512
hereby repealed, effective July 1, 2015. 513