

By: Senator(s) Dawkins

To: Environment Prot, Cons
and Water Res

SENATE BILL NO. 2694

1 AN ACT TO CREATE THE CELL PHONE RECYCLING ACT OF 2005; TO
2 REQUIRE CELL PHONE RETAILERS TO ACCEPT CELL PHONES FOR RECYCLING;
3 TO REQUIRE STATE CONTRACTS TO COMPLY WITH RECYCLING PROGRAMS; AND
4 FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. This act shall be known, and may be cited as, the
7 Cell Phone Recycling Act of 2005.

8 SECTION 2. The Legislature finds and declares all of the
9 following:

10 (a) The purpose of this act is to enact a comprehensive
11 and innovative system for the reuse, recycling and proper and
12 legal disposal of used cell phones.

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

18 (c) It is the intent of the Legislature that the cost
19 associated with the handling, recycling and disposal of used cell
20 phones be the responsibility of the producers and consumers of
21 cell phones, and not local government or their service providers,
22 state government or taxpayers.

23 (d) In order to reduce the likelihood of illegal
24 disposal of hazardous materials, it is the intent of this act to
25 ensure that all costs associated with the proper management of
26 used cell phones is internalized by the producers and consumers of
27 cell phones at or before the point of purchase, and not at the
28 point of discard.

29 (e) Manufacturers and retailers of cell phones and cell
30 phone service providers, in working to achieve the goals and
31 objectives of this act, should have the flexibility to partner
32 with each other and with those private and nonprofit business
33 enterprises that currently provide collection and processing
34 services to develop and promote a safe and effective used cell
35 phone recycling system for Mississippi.

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

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

41 (h) The purpose of this act is to provide for the safe,
42 cost free and convenient collection, reuse and recycling of one
43 hundred percent (100%) of the used cell phones discarded or
44 offered for recycling in the state.

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

51 (j) An estimated five percent (5%) of obsolete cell
52 phones are currently being recycled through a mechanism, whereby
53 private sector recyclers provide retailers with a postage paid box
54 for mailing returned cell phones to the recycler at no cost to the
55 retailers. In some instances, the scrap value of these used
56 phones is sufficient for the recycler to either pay the retailer
57 or make a financial contribution on behalf of the retailer to a
58 nonprofit charity. It is the intent of the Legislature that this
59 model system be substantially expanded as a result of the
60 enactment of this act.

61 **SECTION 3.** The following terms have the following meanings,
62 unless the context clearly requires otherwise:

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

70 (b) "Department" means the Department of Environmental
71 Quality.

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

79 (d) "Used cell phone" means a cell phone that has been
80 previously used and is made available, by a consumer, for reuse,
81 recycling or proper disposal.

82 **SECTION 4.** (1) On and after July 1, 2006, every retailer of
83 cell phones sold in this state shall have in place a system for
84 the acceptance and collection of used cell phones for reuse,
85 recycling or proper disposal.

86 (2) A system for the acceptance and collection of used cell
87 phones for reuse, recycling or proper disposal shall, at a
88 minimum, include all of the following elements:

89 (a) The take-back from the consumer of a used cell
90 phone that the retailer sold or previously sold to the consumer,
91 at no cost to that consumer. The retailer may require proof of
92 purchase;

93 (b) The take-back of a used cell phone from a consumer
94 who is purchasing a new cell phone from that retailer, at no cost
95 to that consumer;

96 (c) If the retailer delivers a cell phone directly to a
97 consumer in this state, the system provides the consumer, at the
98 time of delivery, with a mechanism for the return of used cell
99 phones for reuse, recycling or proper disposal, at no cost to the
100 consumer;

101 (d) Make information available to consumers about cell
102 phone recycling opportunities provided by the retailer and
103 encourage consumers to utilize those opportunities. This
104 information may, include, but is not limited to, one or more of
105 the following:

106 (i) A sign that is prominently displayed and
107 easily visible to the consumer;

108 (ii) Written materials provided to the consumer at
109 the time of purchase or delivery, or both;

110 (iii) Reference to the cell phone recycling
111 opportunity in retailer advertising or other promotional
112 materials, or both; or

113 (iv) Direct communications with the consumer at
114 the time of purchase;

115 (3) Paragraph (d) does not apply to a retailer that
116 only sells prepaid cell phones and does not provide the ability
117 for a consumer to sign a contract for cell phone service; and

118 (4) On and after July 1, 2006, it is unlawful to sell a
119 cell phone to a consumer in this state unless the retailer of that
120 cell phone complies with this act.

121 **SECTION 5.** On July 1, 2007, and each July 1, thereafter, the
122 department shall post on its website an estimated Mississippi
123 recycling rate for cell phones, the numerator of which shall be
124 the estimated number of cell phones returned for recycling in
125 Mississippi during the previous calendar year, and the denominator

126 of which is the number of cell phones estimated to be sold in this
127 state during the previous calendar year.

128 **SECTION 6.** (1) A state agency that purchases or leases cell
129 phones shall require each prospective bidder, to certify that it,
130 and its agents, subsidiaries, partners, joint venturers and
131 subcontractors for the procurement, have complied with this act
132 and any regulations adopted pursuant to this act, or to
133 demonstrate that this act is inapplicable to all lines of business
134 engaged in by the bidder, its agents, subsidiaries, partners,
135 joint venturers or subcontractors.

136 (2) Failure to provide certification pursuant to this
137 section shall render the prospective bidder and its agents,
138 subsidiaries, partners, joint venturers and subcontractors
139 ineligible to bid on the procurement of cell phones.

140 (3) The bid solicitation documents shall specify that the
141 prospective bidder is required to cooperate fully in providing
142 reasonable access to its records and documents that evidence
143 compliance with this act.

144 (4) Any person awarded a contract by a state agency that is
145 found to be in violation of this section is subject to the
146 following sanctions:

147 (a) The contract shall be voided by the state agency to
148 which the equipment, materials or supplies were provided; and

149 (b) The contractor is ineligible to bid on any state
150 contract for a period of three (3) years.

151 **SECTION 7.** This act shall take effect and be in force from
152 and after July 1, 2005.