

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.