

## **Governor Perry's Veto Message of the TV Recycling Bill (HB 821):**

Pursuant to Article IV, Section 14 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto House Bill No. 821 of the 81st Texas Legislature, Regular Session, due to the following objections:

Although House Bill No. 821 attempts to make it easier for consumers to recycle old televisions, it does so at the expense of manufacturers, retailers and recyclers by imposing onerous new mandates, fees and regulations.

Rebuttal: The provisions in HB 821 were very similar to the Computer TakeBack Law (HB 2714), which Perry signed in 2007. There were no manufacturers on record opposing the HB 821. Philips, GE, Thomson and the trade association TechAmerica supported it. Retailers did not oppose the simple requirement that they inform consumers about the state's recycling program. Recyclers testified in favor of the bill because it would create more business for them – and more jobs for Texans. Interestingly, Gov. Perry told Robin Schneider of Texas Campaign for the Environment that he vetoed the bill because it was “an industry-backed bill.”

House Bill No. 821 mandates that television manufacturers collect and recycle a quantity of televisions – regardless of the televisions' original manufacturers – to be determined annually by the Texas Commission on Environmental Quality. It would also hold manufacturers responsible for recycling old televisions on the basis of their market share of new television sales, not on the basis of their past share of manufactured televisions.

Rebuttal: This is called the market share approach and is used in at least seven other TV recycling laws in the U.S. Gov. Perry does not seem to understand that many companies that sold TVs in the past are not in the business of selling TVs any longer. If current market sellers were not responsible for those old TV sets, then there might not be any company responsible for recycling that brand of TVs. Current new market leaders, such as Vizio, might be out of the market when their TVs need recycling. The market share approach provides for these so-called orphan products, which is why so many states are using it, especially for TVs, which have a longer lifespan than computers.

Additionally, the bill imposes new fees on both manufacturers and recyclers.

Rebuttal: There are modest fees (\$2500) for TV producers and **no fees mandated on recyclers or retailers**. Most other states charge TV makers \$5000 to \$15,000 to offset the state costs of implementing the program. This fee provision was in the original industry-backed version of the bill. There is a possibility that the TCEQ could charge a

These requirements would generate unfair results and stifle competition.

Rebuttal: The market share approach creates a level playing field for the companies that are competing now in the TV market. Otherwise, companies have the incentive to get into the market and sell as many TVs as they can before they have to start paying for the recycling of their products. Some have suggested requiring companies to purchase recycling insurance or post bonds. But these approaches could be more onerous and would not address the millions of old TV sets that need recycling now.

The program established by this bill is significantly different from a program established by House Bill No. 2714 in the 80th Legislature for the recycling of computer equipment, which has been widely successful without distorting the marketplace. House Bill No. 2714 requires computer manufacturers to develop plans providing opportunities for consumers to easily return equipment to the manufacturer for recycling. Rather than mandating a program, it provides incentives to manufacturers for accepting equipment from other companies, and specifically prohibits imposing new fees on manufacturers, retailers and recyclers.

Rebuttal: The Computer TakeBack Law has turned out to be much less effective than other producer takeback laws in other states. Texas was dead last in first year per capita collections among these states – with about one half pound per person. Other states collected 10 times that much. Dell was the only major computer or monitor maker to establish a robust collection effort. The electronics takeback laws clearly need more teeth to be effective. State law must require manufacturers to reach minimum goals and truly provide convenient and free collection of TVs, computers and monitors while allowing the companies to tailor their recycling to their business model.

Texas has repeatedly proven that wise incentives can accomplish environmental progress with far greater success than burdensome mandates, fees, regulations and extensive reporting requirements.

Rebuttal: Sometimes voluntary approaches are abysmal failures, as was the case with the Grandfather Loophole in the Texas Clean Air Act, in which less than one-tenth of one percent of the pollution was dealt with in the voluntary program set up by then-Governor Bush. HB 821 did not burdensome mandates, fees or reporting requirements, and the rules would have been approved by Gov. Perry's appointees at the TCEQ. Some TV makers, including Best Buy which has its own house brands of TVs have set up some limited voluntary recycling program (in large part in response to pressure from grassroots environmental campaigns). However as of June 2009, **more than 70% of the TV recycling sites are in the 8 states in which TV recycling laws are in place and being**

Before mandating programs and regulations that entail new costs to the state, consumers and Texas employers, lawmakers should look to encouraging voluntary recycling programs like those being implemented by electronics retailers across the state. I recommend that the 82nd Legislature reconsider this issue to enhance the program for television recycling without hindering competitiveness and imposing burdensome fees and regulations.

Rebuttal: By vetoing HB 821, Governor Perry has kept the burden of TV recycling on local governments, taxpayers, consumers, charities such as Goodwill and the few companies that have stepped up to the plate voluntarily, discouraging a level playing field. Because of this veto, more TVs will go to Texas landfills and sham recyclers that ship electronic waste to developing countries for crude processing. Electronic waste is the fastest growing portion of the wastestream and the largest source of toxic heavy metals going into landfills. Since many of the landfills in Texas are old and grandfathered, they do not meet the more modern standards and even newer landfill liners leak. Relying on landfills to contain pollutants, as the TCEQ recently recommended, is a risky proposition to say the least.

**IN TESTIMONY WHEREOF**, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

**RICK PERRY**

Governor of Texas