

Legislative History for Connecticut Act

Act Number: 08-35

Bill Number: 582

Senate Pages: 1539, 1740-1743

House Pages: 2119-2132

Committee: Environment: 2070-2078, 2085-2095, 2176-2179,
2186-2187, 2201-2215, 2221

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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CONNECTICUT
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SENATE

PROCEEDINGS
2008

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jmk

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Senate

April 16, 2008

Moving to Calendar Page 6, Calendar 230, Senate Bill 565, Mr. President, move to place this item on the foot of the Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Calendar 231, Senate Bill 582, Mr. President, move to place this item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Calendar 244, Senate Bill 665, move to place this item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Calendar 249, PR.

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Senate

April 16, 2008

Calendar Page 6, Calendar 231, Substitute for
Senate Bill 582.

Calendar 244, Senate Bill 665.

Calendar 255, Substitute for Senate Bill 56.

Calendar Page 7, Calendar 285, Substitute for
Senate Bill 390.

Calendar 288, Substitute for Senate Bill 397.

Calendar Page 8, Calendar 307, House Bill 5125.

Calendar 308, Substitute for House Bill 5772.

Calendar 309, House Bill 5318.

Calendar 310, House Bill 5323.

Calendar 312, House Bill 5120.

Calendar Page 9, Calendar 313, House Bill 5706.

Calendar 320, Substitute for Senate Bill 648.

Calendar Page 11, Calendar 343, Substitute for
Senate Bill 366.

Calendar Page 12, Calendar 349, Senate Bill 604.

Calendar Page 14, Calendar 363, House Bill 5111.

Calendar 366, Substitute for House Bill 5449.

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Calendar Page 15, Calendar 369, House Bill 5624.

Calendar 370, House Bill 5623.

Calendar 372, Substitute for House Bill 5806.

Calendar 374, Substitute for House Bill 5830.

Calendar Page 16, Calendar 376, House Bill 5329.

Calendar 377, House Bill 5912.

Calendar 378, House Bill 5909.

Calendar Page 21, Calendar 53, Substitute for
Senate Bill 360.

Calendar Page 22, Calendar 75, Substitute for
Senate Bill 183.

Calendar 116, Substitute for Senate Bill 272.

Calendar Page 23, Calendar 139, Substitute for
Senate Bill 279.

Calendar Page 24, Calendar 165, Senate Bill 545.

Calendar 188, Senate Bill 615.

Calendar Page 25, Calendar 206, Senate Bill 485.

Calendar 241, Substitute for Senate Bill 66.

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And Calendar Page 26, Calendar 262, Senate Bill
507. Mr. President, that completes those items placed
on the Consent Calendar.

THE CHAIR:

Thank you, Mr. Clerk. If Mr. Clerk would call
the pendency of a roll call vote on the Consent
Calendar, the machine will be open.

THE CLERK:

The Senate is now voting by roll call on the
Consent Calendar. Will all Senators please return to
the Chamber.

The Senate is now voting by roll call on the
Consent Calendar. Will all Senators please return to
the Chamber.

THE CHAIR:

Have all the Members voted? Senator Crisco? If
all the Members have voted, the machine will be
closed. Mr. Clerk, please announce the tally.

THE CLERK:

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Motion is on adoption of the Consent Calendar.

Total number voting, 35; those necessary for adoption, 18. Those voting "yea", 35; those voting "nay", 0. Those absent and not voting, 1.

THE CHAIR:

Consent Calendar is adopted. Senator Looney.

SEN. LOONEY:

Yes, thank you, Mr. President. Mr. President, would like to thank all of the Members for their extraordinary cooperation in moving business today, that we had such an extensive Consent Calendar.

Also, Mr. President, would like to move that all items announced for referral to various Committees, that those items be referred and not held.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Yes, thank you, Mr. President. Also, having concluded our business for today, would like to

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DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Christ. Objection on suspension of the rules. Would you care to comment? Representative Cafero of the 142nd, you have the floor, Sir.

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. In honor of Earth Day, we have agreed to suspend these rules in this rare, rare move on our part, much to the chagrin of some former members of this Chamber, but we have no objection to Mr. Speaker. Let's roll.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Mr. Leader. Without further ado, the Clerk please call Calendar Number 431.

CLERK:

On Page 23, Calendar Number 431, Substitute for
Senate Bill Number 582, AN ACT CONCERNING THE
RECYCLING OF COVERED ELECTRONIC DEVICES, Favorable
Report on the Committee on Environment.

DEPUTY SPEAKER ALTOBELLO:

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Would anyone care to comment on this bill?

Representative Widlitz of the 98th, you have the floor,
Madam.

REP, WIDLITZ: (98th)

Thank you, Mr. Speaker. And a happy birthday to everyone in the Chamber. Mr. Speaker, I would like to move for acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER ALTOBELLO:

The question before the Chamber is acceptance of the Joint Committee's Favorable Report and passage of the bill. Please proceed, Madam.

REP. WIDLITZ: (98th)

Thank you, Mr. Speaker. Mr. Speaker, last year we had landmark legislation concerning the recycling of covert electronic devices. And since that time we have had meetings with several of the stakeholders and we have decided to make an adjustment to that bill.

Basically the promise of the underlying bill remains the same. However, when the municipalities were collecting television sets and computers to be recycled, they were sending them to recyclers and the

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recyclers would bill the producers of these products based upon their return share.

We are changing the way in which the manufacturers of television sets are going to be billed. They have actually requested that they be built upon their percentage of market share.

And the reason for that, Mr. Speaker, is that some people hold onto their television sets for a very long time, maybe 20 years or so.

And some of the manufacturers will not be found at the end of life of these products. And others will not have been able to have the time to figure out the costs of that into their marketing schemes.

So they have requested to have the market share formula, which means they will be billed for their market share, and their percentage of the market share of all return to television sets.

They can build that into their price structure, and it will be much simpler for the recyclers. And much simpler for the producers as well. So I move adoption, Mr. Speaker.

DEPUTY SPEAKER ALTABELLO:

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The question before the Chamber is adoption, or passage of the bill in concurrence with the Senate. Further on the bill? If not, Representative Chapin of the 67th, you have the floor, Sir.

REP. CHAPIN: (67th)

Thank you, Mr. Speaker. A question to the proponent through you, please.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, Sir.

REP. CHAPIN: (67th)

Thank you, Mr. Speaker. I had heard from my municipality's Representative to our Resource Recovery Authority on this particular issue.

And she had expressed a concern with a language that we have passed last year that would have required the DEP to adopt regulations, I believe, it was by October 1st. In the towns to move forward based on those regulations by January 1st, said that three-month window.

In reading this bill it looks like we have extended both of those deadlines out six months, is my

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interpretation of that correct? Through you, Mr.
Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Widlitz.

REP. WIDLITZ: (98TH)

Thank you, Mr. Speaker. And I appreciate the
question from the Representative. Yes, because the
DEP was already underway with the regulations process
and we are changing part of the structure of the
building here, they need a little bit more time to do
those regulations.

So we are extending the period by which they will
submit regulations by six months. And that in effect
extends all of the deadlines of the bill out another
six months.

So rather than becoming effective in January, it
will become effective at the end of June. Thank you,
Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Chapin.

REP. CHAPIN: (67th)

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Thank you, Mr. Speaker. And again, through you, Mr. Speaker. As part of those regulations is it required that DEP provide a list of certified electronic haulers. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Widlitz.

REP. WIDLITZ: (98th)

Through you, Mr. Speaker. They will provide a list of qualified recyclers, and that will be posted on the municipality's website, and they are in the process now of determining how they will do that, and how many they will certify.

DEPUTY SPEAKER ALTOBELLO:

Representative Chapin.

REP. CHAPIN: (67th)

Thank you, Mr. Speaker. Through you, Mr. Speaker. So it is anticipated that that listing on their website will occur prior to April 1st to give the municipalities more than three months to prepare for doing whatever necessary to things they need to do, if we were to pass this bill? Through you, Mr. Speaker.

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Representative Widlitz.

REP. WIDLITZ: (98th)

Thank you, Mr. Speaker. I'm not positive in response to that but I would think that the DEP will have to go through the regulations process and have that process approved, I would think before they can actually have a criteria for approving a list of recyclers. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Chapin.

REP. CHAPIN: (67th)

Thank you, Mr. Speaker. Through you, Mr. Speaker. It is also my understanding that the municipalities will be required to submit some sort of a plan to DEP, I guess, best describe possibly as a site plan as to where this collection will be taking place in each municipality.

Is that the lady's understanding as well?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Widlitz.

REP. WIDLITZ: (98th)

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Thank you, Mr. Speaker. That is part of the regulations process as well, Mr. Speaker. There is discussion going on as to whether each municipality will have to have a fixed location or municipalities can share a location on a regional basis.

And that will be done through the regulations which will be forthcoming. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Chapin.

REP. CHAPIN: (67th)

Thank you, Mr. Speaker. And I thank the Lady for her answers. Ladies and gentlemen, I think that this bill is a step in the right direction. I think that the bill we passed last year was also a step in that right direction. I think a time schedule that we placed both DEP and are municipalities under may have been a little rigorous.

I hope DEP will endeavor to get those regulations done as soon as possible to provide all of our municipalities ample time to do what is necessary for them to implement this program by July 1 of that year.

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So I encourage my colleagues to support this bill, and thank you very much, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Chapin. Representative Ferrari of the 67th, you have the floor, Sir. You have the floor, Sir.

REP. FERRARI: (67th)

Thank you, Mr. Speaker. As a rule, as a Christian, I don't generally support pagan festivals. I noticed in the Joint Favorable Report that the Southeast Connecticut Regional Resources Authority was opposed to changing the definition of market share.

And this may dovetail with Representative Chapin's comments but they thought it was impossible to accomplish during that period of time. And the question might be to the proponent of the bill, has this been answered and taken care of? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

REP. WIDLITZ.

REP. WIDLITZ: (98th)

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Through you, Mr. Speaker. I'm not sure I understand the question in relation to the timeframe in the objection from CRRA that you are talking about.

DEPUTY SPEAKER ALTOBELLO:

Representative Ferrari.

REP. FERRARI: (67th)

Obviously, I wasn't very clear. That particular Regional Recovery Authority opposed to. They oppose changing to market share because they thought it was impossible to accomplish, I will put quotes around impossible to accomplish, I don't know exactly what that means.

Has a language been modified enough to a degree that this will be possible for them to accomplish now?

DEPUTY SPEAKER ALTOBELLO:

Representative Widlitz.

REP. WIDLITZ: (98th)

Thank you, Mr. Speaker. Actually, by building the producers of the television sets by market share is a much easier way of building them by return share. By return share all of those products must be individually counted and weighed, and each

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manufacturer, each producer rather, would receive a bill.

This is a much simpler process because the television manufacturers will have a percentage of their market share based on their national figures. So when the recyclers receive those television sets coming back to them, they will just build each one of those manufacturers for their percentage of whatever comes back.

There is much less bookkeeping, eliminates the orphan products as well, we won't have to go tracking down products that we can't identify the manufacturers. So in effect is a much easier system for the manufacturers as well as the recyclers.

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Ferrari.

REP. FERRARI: (67th)

Thank you, Representative Widlitz. That helps me a great deal, thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

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Representative Roy of the 119th, you have the floor, Sir.

REP. ROY: (119th)

Thank you, Mr. Speaker. I rise in support of the bill. Representative Widlitz has been four long years on this program, and have done a tremendous job.

Last summer, she was unable to attend the conference so I went in her stead and made a presentation about electronic recycling waste program that we set up here.

And the thing that impressed me the most was when a manufacturer stood up and she looked at me and he said he wanted to Connecticut for being so open and talking, and talking, and talking with all the representatives of the industry, as well as environmental groups.

I applaud the efforts of Representative Widlitz on that, the whole state was complimented. Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Roy. Representative Cafero.

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REP. CAFERO: (142nd)

Thank you, Mr. Speaker. Ladies and gentlemen of the Chamber I stand in strong support of this bill, and I can't believe that I am about to say this but when the vote is taken, let's all vote green. Thank you.

DEPUTY SPEAKER ALTOBELLO:

I believe that was a call for bipartisan support, and Representative Green and Representative Green also joined with the Minority Leader in supporting this bill. Further on a bill? If not, staff and guests please retire to the Well of the House. Members take your seats. The machine will be opened.

CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber. The House is voting by Roll Call. Members to the Chamber, please.

DEPUTY SPEAKER ALTOBELLO:

Have all Members voted? Have all Members voted? Please check the board to make sure to make sure that your vote is properly cast. If all Members have

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voted, the machine will be locked. With the Clerk
please take the tally?

CLERK:

Senate Bill Number 582, in concurrence with the
Senate.

Total Number Voting	148
Necessary for Adoption	75
Those voting Yea	148
Those voting Nay	0
Those absent and not voting	3

DEPUTY SPEAKER ALTOBELLO:

Passage in concurrence with the Senate.

(CHAMBER AT EASE)

Will the House please come back to order.
Representative Christ, please prepare yourself. Will
the Clerk please call Calendar Number 236.

CLERK:

On Page 8, Calendar Number 236, Substitute for
House Bill Number 5808, AN ACT CONCERNING SOCIAL
SECURITY NUMBERS ON VITAL RECORDS, Favorable Report of
the Committee on Public Health.

DEPUTY SPEAKER ALTOBELLO:

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investing in a franchise like this, and are not aware of possibly some of the issues out there.

And how can you expect them to educate the people who maybe they're selling them to, if they're not aware of the problems? Thank you, that's--

DEP. COMM. AMEY MARRELLA: Thank you.

SEN. MEYER: Okay. Are there any other questions or comments by Members of the Committee? Thank you to both Commissioners, we appreciate it.

DEP. COMM. AMEY MARRELLA: Thank you.

COMM. GINA MCCARTHY: Thank you very much for all your time.

SEN. MEYER: We're going to take one more public official before we go to the public list, and that is the State Representative from Guilford, Patricia Widlitz.

REP. WIDLITZ: Good afternoon, Sen. Meyer, Representative Roy, Members of the Committee. I'm here to, my name is Pat Widlitz, representing the 98th District of Guilford and Branford. And I'm here to discuss with you a little bit about Senate Bill 582, AN ACT CONCERNING RECYCLING OF COVERED ELECTRONIC DEVICES.

We've already been there, done this, and I think we did it very well last year. We passed Public Act 07-189, and really, I want to explain to you why we're back.

When we negotiated the bill last year, it was a very complicated, long negotiation and we knew that there were still some issues out there that people had concerns about. So we agreed upon passage of the bill to keep discussing the issues.

We've had many conversations with the stakeholders and the bill before you is not necessarily language that I ask you to pass. It's the result of the conversations we've had, and we needed the benefit of a public hearing because if some, one party thinks something is a great idea, there's always going to be a reaction to that and it's not always a balanced one.

So that's why the bill is before you. It basically proposes two changes to the existing law. The first one would separate out the way in which television manufacturers will be billed by recyclers. And that would be based on their market share rather than the products that are returned.

This seems to work out better for the manufacturers because they can actually build in the cost of their products coming back for recycling upfront. It is a very volatile industry; companies come and go.

And so if they are willing to do this upfront, it makes it easier for the recyclers, for billing purposes, and it still covers the municipalities, to there's no cost to the municipalities for those recycling charges.

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The other part of the bill, which I think you will hear a lot about this afternoon, is a little more, a lot more controversial. And that is in changing the definition of manufacturer. This would exclude a person who owns and licenses a brand, but does not actually manufacture or sell the products.

There are many corporations that sell their name to manufacturers and they don't want to receive the bill for the recycling charges. They want the bill to go to the manufacturers. There are some issues around this because many of them license their brand to more than one other manufacturer, and they're offshore.

So in looking at this particular provision, we need to make sure of two things: That we are consistent, first of all, with what other states are doing, so we don't have a patchwork of policies; and then more importantly, that we have the reach to get to the manufacturers to enforce the conditions of our law.

So you will be hearing testimony this afternoon, I think on both sides of this issue. My suggestion is that after the public hearing and we have more information, that we reconvene yet that stakeholders group and make some recommendations to the Committee for substitute language. Any questions?

SEN. MEYER: Representative Widlitz, you were the, the author of the electronic waste bill last year, and to put you on the spot a little bit, I just want to know what your own conviction is

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about the redefinition of manufacturer, so it does not include a person who owns and licenses, but it would include only the manufacturer or the seller.

REP. WIDLITZ: Senator, I have some serious concerns about it. And that's why, I will, I will monitor the hearing this afternoon. I'd like to learn more about both sides of the issue. But my initial reaction is, I'm not sold.

And I'd also like to acknowledge Representative Roy and Representative O'Rourke's contribution to this bill, as well as the many, many stakeholders.

SEN. MEYER: Good. We'll look forward to your input going from here.

REP. WIDLITZ: Okay.

SEN. MEYER: Are there any other questions or comments of Representative Widlitz? Thanks, Pat.

REP. WIDLITZ: Great, thanks.

REP. ROY: Thank you. We're going to move on to the public portion. Representative D'Amelio, if you're here, we're going to call you second. If you're not, we're going to go without you.

And our first speaker from the general public is Kim O'Rourke. She'll be followed by Mike Bzdyra.

REP. ROY: I'll tell you, your husband is not allowed to ask you questions.

KIM O'ROURKE: That's probably a good thing. I've never been first before, wow. Well thank you.

REP. ROY: You have been in our hearts.

KIM O'ROURKE: My name is Kim O'Rourke. I'm the Chairman of the Government Affairs Committee for the Connecticut Recyclers Coalition and I'm the Recycling Coordinator for the City of Middletown.

I'm here today to talk about two bills. One is the Electronics Recycling Bill, Senate Bill 582, and the other Senate Bill 585, regarding many things, but in particular, I'm going to talk about the Solid Waste Fund.

So first, just briefly I want to address the Electronics Recycling Bill. And as Representative Widlitz said, this bill does have primarily two things that it's trying to accomplish. One is to change the definition of manufacturer, to exclude entities who own or license a brand name, but neither make nor sell electronic, covered electronic devices.

The Connecticut Recyclers Coalition does not support this change. And secondly, this bill works to change, as Representative Widlitz did explain, change the television from getting billed from their return share, which is getting an invoice based on how many of a manufacturer's TVs were recycled to market

share, which is getting it invoiced based on how many TVs an manufacturer sells.

We're not, I, I guess we're not opposed to this change, but we would recommend that if this language was changed, that it does include a reference to weight, that they should be sold by weight; they should be considered by weight.

My colleague, Peg Hall, is going to address the particulars of both these issues in her testimony because I want to focus on Senate Bill 585, Section 6, which allows us to use funds from a solid waste account in the Environmental Quality Fund for state and local recycling programs.

And we're very excited. I can't tell you how many years I've come up here and asked for funding for recycling programs. It's been over ten years since we've gotten any state funding. We don't have a state recycling coordinator. We don't have a state public education person for recycling.

So we're very excited to see in this bill, funding that can be used for recycling. Was that my three minutes? Oh, my gosh. Okay. Well, that's it. I did some written testimony.

REP. ROY: Thank you. I want to make a few points on this last, why you oppose this, or support it?

KIM O'ROURKE: Why we support it? Well, basically because the state solid waste management plan is calling for a 58% recycling goal. We

currently have very little state resources for recycling. Municipalities and regions are working on shoestring budgets to get recycling going. We really need some financial support.

REP. ROY: Thank you, Kim. Any questions from Members of the Committee? Oh, you got off free. Thank you, Kim.

KIM O'ROURKE: Thank you.

REP. ROY: Mike Bzdyra, followed by Winston Averill. Mike not here? Okay. Winston Averill followed by Barbara Losey.

WINSTON AVERILL: Chairman Roy, Members of the Committee, my name is Winston Averill. I'm the Regional Recycling Coordinator for the Southeastern Connecticut Regional Resource Recovery Authority, and I'm here today to speak on Raised Senate Bill 582, the Electronics bill. And I'll be brief because I have three minutes here.

Two notes. One is Representative Widlitz had noted, a lot of work went into the existing law, Public Act 189, the Electronics law. A lot of stakeholders' months of negotiation and work with elected officials, stakeholders and so on.

So this Raised Bill seeks to reopen that, if you will. And Public Law 189 has not taken effect yet. It has not actually been implemented. So a lot of caution has to address the reopening of that electronics legislation.

As noted by the prior speaker, we have problems with a couple components of it. One is that the change in the definition or allocation responsibility of manufacturer is an issue. And we feel that changing that definition can add a lot of complexity and uncertainty in the structure for recycling electronics.

Right now if electronics are gathered and sorted by manufacturers, it's relatively easy for the towns, the approved recyclers and the manufacturers who will be their financially responsibility to be determined.

Changing that, where a particular brand of computer, Dell, if you will, is using three or four or more manufacturers, is going to add a level of complexity for the approved recyclers; and it's also going to add a level of administrative complexity, potentially for the departmental Department of Environmental Protection, a level of complexity they don't, they don't need.

The, some pieces of the bill we don't have an objection to. The allocation of televisions by market share, in other words, where you have a pile of discarded TVs and then those TVs are simply divvied up based on a percentage of market share of sales of televisions by the various manufacturers, in and of itself isn't that onerous.

But my concern is that absent the actual operation of Law 189, and in consideration of the fact that, that legislation was based on

not just the hard work of the various stakeholders, but also experience for the states. I think we have to be very cautious before we move forward and, and reopen to make substantive changes. Thank you.

REP. ROY: Thank you, Winston. Any questions from Members of the Committee? Any questions or comments? Seeing none, Winston, you're all set.

WINSTON AVERILL: Thank you.

REP. ROY: Barbara Losey, followed by Grant Westerson.

DEP. DIR. BARBARA LOSEY: Chairman Roy and Chairman Meyer, Members of the Committee, thank you for allowing me to make comments about House Bill 5805, (RAISED) AN ACT CONCERNING TOXIC SUBSTANCES.

I am Barbara Losey, Deputy Director of the Alkylphenols & Ethoxylates Research Council, called APERC for short, which is composed of manufacturers and suppliers of alkylphenols and their derivatives, including alkylphenol ethoxylates.

APERC opposes House Bill 5805, which proposes to ban APES in commercial and household detergents, cleaning products, as well as personal care products because a product ban is an extreme action that should be reserved for compounds that have been unequivocally demonstrated to pose a severe and unreasonable risk to human health and the environment.

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JONATHAN BILMES: Thank you.

REP. ROY: Martha Kelly, followed by Peg Hall.
Martha Kelly? Peg Hall, followed by Debbie
Durbin.

PEG HALL: Good afternoon. My name is Peg Hall.
I'm the Solid Waste Manager for the town of
Branford, where I've been in Garbage for 20
years, in charge of all aspects of garbage and
recycling household hazardous waste for the
town.

I'm one of the founding members of the
Connecticut Recyclers Coalition, (CRC) and I was
very active in the passage of Public Act 07-
189, which bill, Senate Bill 582, which I'm
speaking on today, seeks to modify.

Branford has been running a permanent
electronics recycling drop-off location at our
transfer station for over nine years - that's
longer than anybody else in the state.

The bill, as you've heard, seeks to two things:
To change the definition of manufacturer and to
change TVs from return share to market share.

The definition of manufacturer has to
accomplish the following things: Each Covered
Electronic Device (CED), must have an
identifiable responsible entity associated with
it.

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Each CED must have exactly one identifiable responsible entity associated with it--not two or more to choose from.

And each responsible entity must be one that can be legally (think interstate commerce) and physically (think presence or assets in the United States) be somebody who can be made to pay their invoiced costs. In other words, it has to be enforceable.

So that's what the definition of manufacturer has to accomplish.

The change in definition proposed by this amendment should not be supported. There is strong national consensus building that the brand owner is a primary legal entity that should be the responsible party.

That's true in the definitions that are in place in California, Main, Maryland, Minnesota, North Carolina, Oregon, Texas and Washington state. It's also the emerging federal consensus in at least two federal draft documents that I've seen.

This amendment and the existing definition may have problems with the definition, and the definition might have to be changed. It's very complex. You might want to review my written testimony for a simplified discussion of player categories.

We oppose changing the definition of manufacturer as written in this bill to relieve brand owners of the responsibility as a

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manufacturer. We support reviewing the definition of manufacturer to make sure it accomplishes the goals that are outlined above.

We don't object to changing the TVs to market share instead of return share. It's probably a good idea, especially about the Orphans.

But if you change to market share, then any definitions have to work for both computers and TVs and have to work for both return share and the market share because then we would have both in our law, because the computers are still under return share.

All that has to happen without compromising the language that protects us for Commerce Clause challenges. The chances of unintended consequences is great. We have to look at that very carefully for anything we were changing.

Also, any change to market share, may I continue? Thank you. Any change to market share has to have market share data available, divided out by the definition that we use for manufacturer.

So if no market share data exists that can be broken out by importer, for example, then the importer can't be the manufacturer you try to sell a bill to because you won't know how to send the bill for.

Sorting this out should be the responsibility of those who are advocating to change these definitions. If they can't do it, then we

shouldn't change it. If they can, let's listen to them.

The bill cannot be allowed to change a funding mechanism that cannot be practically accomplished.

REP. ROY: Okay, can we stop there, Peg?

PEG HALL: Thank you.

REP. ROY: Thank you. Any questions or comments from Members of the Committee? Seeing none, thank you and I'm sure we'll get your guidance as we're moving along.

PEG HALL: Thank you.

REP. ROY: Debbie Durbin, followed by Barry Miller.

DEBBIE DURBIN: Good afternoon, Representative Roy, Members of the Environment Committee. I'm Debbie Durbin and I'm here as a Connecticut resident, employee, and fire-safety advocate to voice my opposition to Raised Senate Bill 5805.

While the author and this Committee are well-intentioned, this bill is not the way to protect the citizens of our state.

This bill seeks to ban various safe and effective flame retardants that have been shown, not only to safely protect those in uniform who risk their lives for us, but also families like mine and yours.

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I've lived in Connecticut for 22 years and worked at Chemtura Corporation in Middlebury for many years. We have over 600 jobs in Connecticut with our employee force and that translates into many more jobs if you consider the multiplier of your high-wage jobs on the communities in Connecticut.

Among our products, Chemtura produces decaBDE, a flame retardant that makes the products we use every day - such as electronics, upholstered furniture and cars - more fire resistant and safer.

A German Fire Safety Institute study showed that when exposed to a flame, a television with flame retardants self-extinguished when the ignition source was removed, while a TV with almost no flame retardants led to complete destruction of the room in less than eight minutes.

Similarly, in a study of furniture, an armchair without flame retardants gave two minutes escape time, while one with flame retardants gave 22 minutes.

You recall the 2003 tragedy that occurred at Rhode Island nightclub where 100 people died. That building's insulation didn't have flame retardants, enabling the fire to ignite and quickly spread.

Compare that to the Air France jet that skidded off a Toronto runway in 2005 and burst into flames. All 309 passengers and crew escaped,

thanks to the flame retardants used to build the plane.

Flame retardants give people the precious extra minutes we need to put out small fires or to evacuate ourselves and our families to safety. This is especially important for economically disadvantaged families living in apartment buildings in urban areas and needing more escape time.

The pentaBDE and octaBDE flame retardants mentioned in the bill have not been made by our company or any other global brominated flame retardant producers since 2004.

Since 2006, federal law requires that anyone intending to manufacture or import either of these substances for commercial use must first seek permission from the U.S. EPA, essentially banning these two materials from anywhere in the United States.

Only decaBDE is produced, and according to the National Academy of Science, the National Association of State Fire Marshals and others, decaBDE is by far the best-studied, most-analyzed and most-effective flame retardant available. And it is safe for its intended applications.

The European Union conducted --

REP. ROY: Debbie, can we hold there, please?

DEBBIE DURBIN: Yes.

REP. ROY: Thank you. Are there any questions?
Representative Urban.

REP. URBAN: Thank you, Mr. Chairman. I guess I'd like to start with how many companies actually produce polybrominated diphenol ethers? Are there three, is my recollection?

DEBBIE DURBIN: Yes.

REP. URBAN: That would be an oligopoly, correct?

DEBBIE DURBIN: I'd rather defer that question to my colleague Bob Campbell, who will testify later.

REP. URBAN: All right, well I will tell you I'm an economist that is an oligopoly. An oligopoly has had significant market power which oftentimes translates into significant power in other areas.

I am surprised at your testimony. The firefighters have been extremely supportive of this bill in other states and I would suggest to you that there is ample evidence that PBDEs are toxic. That they are thyroid disruptors, meaning they can hurt, cause all kinds of issues with growth, birth defects, mutagenic, they're clonogenic.

And I would also say that they are coming up with alternatives. As a matter of fact, in, and I'm referring to notes because I want to get it right, 57% of televisions and 95% of computers are PBDE-free.

Almost all of the major manufacturers have started to come up with alternatives. So when you talk about we don't care about firefighters or about children being in areas where they might not have flame retardants and their chairs or whatever will burst into flame, that's simply inaccurate.

What we are suggesting here is that there are alternatives and we are supporting the use of alternatives, not that we are saying that there should not be flame retardants. We are saying that there should not be toxic flame retardants.

So, as I said, and I welcome your comment but, I would go back to that the industry is an oligopoly. And I understand that market structure and how it works, and that some of the information that you're giving here is simply inaccurate information.

And I would, I would refer you back to the states that have already come forward and address this, and the firefighters in those states that have been enormously supportive of this, this change.

REP. ROY: Debbie, any--

DEBBIE DURBIN: I don't believe that the information that I've given you regarding those studies is inaccurate. And, as I'm not a technical expert with flame retardants. However, to my knowledge there is no substitute like the deca product that is as effective as the deca product.

And if you'll allow me to continue, the European Union conducted a ten-year risk assessment on deca and in December of 2007, the EU government authorities responsible for the EU's Risk Assessment process affirmed the Risk Assessment Report conclusions, which were that there are no risks to human health or the environment from today's uses and applications.

You may know that the EU recently instituted REACH, which is a very stringent program for the registration of chemicals imported into the EU, which illustrates how strict the region is regarding the chemical products.

Because not all fire safety standards are mandatory, removing DecaBDE from the market presents a risk that manufacturers would stop flame retarding products, and there would be more home fires, injuries, property damage and deaths.

As an employee, an unnecessary ban of this product would negatively affect me and my coworkers, who support our flame retardants business.

REP. ROY: Okay, Deb. Deb, we'll stop there.

DEBBIE DURBIN: Okay.

REP. ROY: Okay, thank you.

REP. URBAN: I have a follow-up.

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REP. ROY: Representative Urban, followed by Representative Moukawsher.

REP. URBAN: I appreciate what you're saying here, but you do understand that Deca in the presence of sunlight breaks down into the toxic substances. So Deca is not, in fact, safe at this point in time and there's ample scientific evidence to support that.

And I thank you, Mr. Chairman. And I thank you for your testimony. I always thank people who are willing to come forward and testify in front of the legislature, so thank you.

DEBBIE DURBIN: You're welcome.

REP. ROY: Representative Moukawsher.

REP. MOUKAWSHER: Thank you, Mr. Chairman. We're debating, you know, the science of a lot of these different toxic substances and I note in the bill that the Penta and Octa mixtures, we have a sort of different treatment of them.

And you're saying that essentially those two substances can't be used and manufactured in this country anyway.

DEBBIE DURBIN: No.

REP. MOUKAWSHER: So the only real impact that this bill would have would be on the Deca mixture, which I'm not even sure what the differences are but, your company uses this in, as a flame retardant?

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DEBBIE DURBIN: My company manufactures Deca.

REP. MOUKAWSHER: Manufactures Deca?

DEBBIE DURBIN: Yes.

REP. MOUKAWSHER: And did you say that's in this state?

DEBBIE DURBIN: We don't manufacture it in this state, no. It's manufactured at a facility in Arkansas. But the people who work in Middlebury provide support for all of our businesses and flame retardants is one of those businesses.

REP. MOUKAWSHER: Well, I don't, I don't have any firm conclusion about, you know, I, I don't know. You've presented some information about studies that have been done on this and I'm, I'm going to withhold judgment on it because I'd like to look at what you submitted, and also these studies.

And I, in terms of the, you know, effect on health, I'm not sure. I don't know if you're an oligopoly or not. But I'm not really too concerned about that so.

DEBBIE DURBIN: I think my colleague who's going to testify later can answer a lot of the technical questions about the product.

REP. MOUKAWSHER: Okay, I'll, I'll look forward to that. Thank you.

DEBBIE DURBIN: Thank you.

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respected. So I'm just trying to get a handle on this.

You know, when I ask a question, there's a punch line after it and I'm--

BOB CAMPBELL: No, I, I think you, you certainly, no, you certainly are right that there, there is a good possibility. In fact, we've seen it happen in Europe where electronics producers didn't have this kind of standard.

They didn't have the concerns about product liability, like we have here in the U.S. They didn't flame retard their products. Sweden had 200 times the rate of TV set fires that we had in the US probably five years ago, ten years ago. They've changed since then because of, of fire safety concerns.

REP. PERILLO: And that helps me out. Thank you.

BOB CAMPBELL: Thank you.

REP PERILLO: Thank you, Mr. Chairman.

REP. ROY: Thank you. Any other questions or comments for Mr. Campbell? Okay, thank you very much. We appreciate your being here.

BOB CAMPBELL: Thank you very much. Margaret Ehert, followed by Chris Phelps.

MEGGAN EHERT: I can get going? Great. Thank you, Mr. Chairman, Members of the Committee. I appreciate the opportunity to be here today. I am General, I am Senior Counsel and secretary

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of Thomson Inc. I'm here today to testify in support of Senate Bill 582.

I'd like to thank Senator, excuse me, Representative Widlitz, Representative Roy, Senator McKinney and the DEP for taking time to meet with us over the last couple of months, to discuss our concerns with the 2007 Electronic Recycling law that was adopted.

I was going to focus my testimony on the market share change but it seems that that has pretty widespread support. It certainly has support from the TV industry.

There are two key reasons why we support that aspect of it. Number one, Senate Bill 582 recognizes the important differences between IT and TVs, and that there are different recycling approaches or programs that should be implemented for each, given those differences.

One key one is the age of TVs. You don't see them in the waste stream in any material amount until they're about 15 years old. I'd like to, raise your hand if you have a 15-year-old computer at your house. Big difference between IT and TV.

There are also big market differences. In the TV industry it's an easy in, easy out market, with a significant number of turnover in the manufacturers in the market. A lot, we're seeing a lot of Far East manufacturers come in and dominate the market with a pretty impressive market share.

And if you go with the return share law, which Senate Bill 582 proposes to change to "market share", if you go with the return share, you give a free ride to those new market entrance.

Histories demonstrated that they will not be in the market when their products hit the waste stream. They will not have to account for this cost in the cost of their products sold to consumers.

And so while they will never pay for electronic waste, in the meantime they will have a competitive advantage over the longstanding manufacturers who do have to account for the cost.

Switching it to market share, which is what Senate Bill 582 does, levels the playing field for television manufacturers, preserves the competitive marketplace and avoids getting a free ride to the new market entrance.

But I'd also like to spend some time, although my written testimony does not discuss this, on the brand ownership issue, which is the change that's being proposed to the definition of manufacturer.

REP. ROY: Can you do it one paragraph?

MEGGAN EHERT: Or less. What the definition is intending to get at are those parties who are merely the brand owner. So it would not exclude a Wal-Mart, a Dell, a Best Buy. You're only going to exclude the companies who, their

only role with the end product is licensing their name for use on the product.

They're making about 2% in the form of a trademark royalty. A cost of a product, \$750, they make about \$15; it costs about \$35 to \$50 to recycle the product.

That's it. They have, they don't manufacture. They don't sell. They don't import. They don't have the ability to impact for the design of the environment. It's basically a penalty.

I've spoken with the DEP and also with some of the, the folks who have testified before me. We are very committed to finding language that will accomplish everyone's goal. I think we can get there, and we're, we're dedicated to doing that.

REP. ROY: Thank you. That was a long paragraph. All right, any questions or comments for Meggan? Meggan, thank you very much.

MEGGAN EHERT: Thank you, I appreciate it.

REP. ROY: Chris Phelps, followed by Sarah Uhl.

CHRIS PHELPS: Mr. Chairman, I, I know I missed my turn earlier, and I know there are folks behind me on the list who, at this moment who need to leave, so I'd be happy to wait to the end of the hearing to testify briefly, if you don't mind.

REP. ROY: Sarah Uhl, followed by Irene Rodriguez.

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REP. ROY: Thank you. Any other questions or comments for Sarah? Sarah, thank you very much.

SARAH UHL: Thank you.

REP. ROY: Irene Rodriguez, followed by Chris Phelps.

IRENE RODRIGUEZ: Hello. My name is Irene Rodriguez. I'm here on behalf of Apple Computer. We actually were trying to get a representative to come out, but we just could not arrange it to come out from California, so I'm sorry about that.

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Apple has, has been a long advocate of product stewardship and we believe that the concept extends to the proper disposal of electrical equipment at the end of the useful life.

We believe that all parties that have a role in manufacturing, selling, or using Apple products also have a role in end-life management.

Manufacturers should design products with minimal environmental impact, improve, provide means to facilitate environmentally friendly recycling.

Consumers should be allowed to have friendly and in an adversely effective environmental disposal means and government should develop public policies that promote appropriate end of life management.

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Apple continues to move forward in our goal of eliminating toxic chemicals in our computers. We introduced our first Macs with worker-free lead, lead backlight technology in 2007, and just recently we introduced the MacBook Air. The new Air Book embodies Apple's continued environmental progress with aluminum enclosure.

And I think I'm getting a little technical so basically what I'll just let you know is that the E-Waste bill that was passed last year, we worked really hard with the legislators and I think it took in all the stakeholders together and tried to address as many issues as possible.

DEP did an amazing job. I've never actually been on a conference call every two weeks with 40 different stakeholders, trying to come up with regulations to address as many issues as possible.

And it's unfortunate that this bill that has taken so much time and energy, and so many people have worked on, too, hasn't even had the chance to be implemented before we've already changed it.

That being said, we, one of the biggest issues we have with the Senate Bill 582, is product labeling. We find that product labeling just for one individual state out of the world is kind of a negative aspect and it is an undue burden on the manufacturers.

And I thank you for your time and I'll try to answer any questions you have.

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Environment Committee Testimony**March 7, 2008****S.B. 582 An Act Concerning the Recycling of Covered Electronic Devices
Testimony of Meggan Ehret, Senior Counsel, Thomson Inc.**

Good Afternoon Chairpersons Senator Meyer and Representative Roy and Ranking Members Senator McKinney and Representative Chapin, I am Meggan Ehret, Senior Counsel and corporate secretary of Thomson Inc., and I am here today to speak in favor of SB 582 An Act Concerning the Recycling of Covered Electronic Devices. First, let me personally thank Representative Pat Widlitz as well as Representative Roy, Senator McKinney, and members of the DEP staff who so generously gave their time to discuss our concerns with the current law.

Today, Thomson is a world leader in digital video technologies. Thomson provides technology, services, and systems and equipment to help its Media & Entertainment clients — content creators, content distributors, and users of its technology — realize their business goals and optimize their performance in a rapidly-changing technology environment. The Group is the preferred partner to the media and entertainment Industries through its Technicolor, Grass Valley, RCA, and Thomson brands. As background, RCA's stock was acquired by General Electric in 1986, and shortly thereafter Thomson bought certain consumer electronics assets from GE and eventually acquired the RCA trademark (in most classifications) and today licenses the trademark to a number of different companies that make RCA televisions and other RCA-branded products. In 2004, Thomson sold its television manufacturing assets and now licenses the trademark to a television manufacturer.

Thomson is committed to complying with all environmental, health, and safety laws and regulations applicable to our business activities. We are equally committed to preventing deterioration of the environment and minimizing the impact of our operations on the land, air and water. These commitments can only be met through the awareness and cooperation of all employees.

As you are aware, Connecticut adopted a "return share" electronic recycling law in 2007 that charges each television and computer manufacturer for the costs associated with recycling their products. This bill proposes to change the allocation of the costs for televisions from "return share" to "market share," which means that the costs associated with recycling televisions will be allocated to the current manufacturers based on their respective share of the market. We are testifying in favor of this bill for two key reasons: first, this bill appropriately recognizes the important differences between televisions and computers and, second, as a result of those differences, it implements an approach to recycling televisions that levels the playing field for television manufactures.

First, the different product life expectancy, market dynamics, and residual values necessitate different approaches to recycling each product and this bill recognizes that, as have other state laws, like New Jersey and Oregon.

- **Different Product Life Expectancy** - Televisions have an average useful life of 15 to 17 years and have been available on the market since the late 1920's. Computers,

on the other hand, have only been widely available to consumers since the 1980's and have an average life expectancy of at least 10 years less than the average television. Because televisions have been in existence much longer and have a much longer life, many of the manufacturers of the televisions hitting the waste stream are either no longer in business or are no longer manufacturing televisions.

- **Different Market Dynamics-** The competitive pressures in the television industry have a much more significant and adverse impact on a manufacturers' ability to increase prices to account for the costs associated with recycling. A recent report by the financial services company Morningstar illustrates the competitive advantage that value brands have in the television business world: "The rampant competition from value brands like Vizio and Westinghouse has undercut prices of brand names like Sony, Philips and Panasonic by as much as 40%...Sustaining healthy returns on capital in such an environment is almost impossible." ("Flat Panels Have Poor Fundamentals," 03/26/2007). Such present-day manufacturers would be given a free pass under the current law until their branded products begin to appear in volume in the State's recycling stream, which is 15 years after the product is sold.
- **Different Residual Value -** A computer's residual value is much greater than the typical cathode ray tube television. Computers contain metals and other valuable and easily recycled or reused materials. This significantly impacts the economics of recycling a television versus recycling a computer.

Second, in recognition of these differences, the bill allocates the costs associated with recycling televisions among the current television manufacturers based on each manufacturer's respective share of the market. This is the only approach that levels the playing field and preserves the competitive marketplace. This change is supported by all the large current television manufacturers, including the coalition of television manufacturers (Electronics Manufacturers Coalition for Responsible Recycling) and the ITI, which submitted testimony today memorializing its support of market share for televisions. It is a fairer approach for the following reasons:

- The television market is an easy-entry and easy-exit industry, making short-term competitive advantages the rule. According to an article in Smart Money Magazine ("Behind the Glass," March 2005), 70 percent of the television manufacturers were not in business ten years ago. By the time a new market entrant must pay to recycle its products (approximately 15 years from today), it is likely no longer in business.
- Far East manufacturers are flooding the market. "China...has emerged to build consumer electronics...as a new manufacturer. Any company with the resources and a market entry point can deliver product relatively quickly by contracting with the original design manufacturers." (The Consumer Electronics Industry in Flux, Gartner Inc. Research Report, November 16, 2005.). History has proven that they will not be in business by the time their products hit the waste stream and, given their location, enforcement or collection (particularly after they are out of business) will be difficult

if not impossible, unless a barrier to entry to the market is contributing to the costs of recycling televisions now.

- It is difficult—if not impossible—to estimate today the costs associated with recycling televisions 15 years from now (e.g., collection, transportation and recycling) and market share allocation ameliorates this concern. Thus, allocating the actual costs to recycle products today among today's market participants is fair and permits today's market participants to plan accordingly.

Anything other than market share will give a free ride to new market entrants as they will not be required to pay any costs for recycling today and history has demonstrated the majority of today's new market entrants will be out of business in 15 years (which is when their products hit the waste stream). Thus, new market entrants will likely never pay for recycling electronic waste. Importantly, as a result of not having to factor in the cost of electronic recycling, they are able to price their products lower than the long standing market participants and increase their share of the market. This is the same conclusion reached by the Council of State Governments NE region, Minnesota, New Jersey, and Oregon. (See http://www.csgeast.org/pdfs/RegionalDraft7-06_revised.pdf).

In fact, to date, only two states have adopted electronic recycling laws that allocate the costs of recycling televisions based entirely on return share. Those are Connecticut and Maine. As discussed here today, advancing this bill and allocating the cost associated with recycling televisions to the current market participants based on market share is the only approach that levels the playing field for the television manufacturers. We respectfully ask that the Committee support this bill and level the playing field and preserve the competitive marketplace for television manufacturers.

Thank you for allowing me the opportunity to be here today and I look forward to your questions.

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Environment Committee
Testimony on Raised Bill 582
An Act Concerning the Recycling of Covered Electronic Devices

Gina Chiarella – COO, WeRecycle!, Inc.

Madam Chair, Mr. Chairman, and members of the Committee:

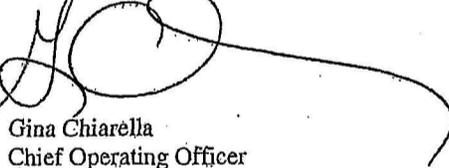
My name is Gina Chiarella and I am COO of WeRecycle!, Inc., a Connecticut based recycler of computers, electronics, and other items. SB 582

WeRecycle!, Inc. does not support the proposed change in definition of manufacturer. This change will result in a tedious and inefficient process to identify and track down the manufacturer of covered devices.

We would support a definition of manufacture that includes the brand owner as the manufacturer rather than the licensee of the brand being considered the manufacturer. Because relationships between brand owners and those with whom they license their brand name to can change and brand owners can have numerous importers and manufacturers overseas, we feel that the proposed change to the definition as will result in a burden on approved recyclers to collect payment for services.

Thank you for your time and your thoughtful consideration to this legislation.

Sincerely,



Gina Chiarella
Chief Operating Officer

T: 877.937.3292 F: 203.630.2429 W: www.werecycle.com

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Committee On Environment Public Hearing

March 7, 2008

Testimony Regarding Electronics Recycling Legislation

Senate Bill 582

By M----- J. H-----, S----- W----- Ma-----, B a f d CT

Thank you for the opportunity to submit this testimony. My name is Peg Hall and I am the Solid Waste Manager for the Town of Branford. I came to Branford as its first Recycling Coordinator in February 1988. I became Solid Waste Manager in 1992 and currently administer all aspects of garbage, recycling, and household hazardous waste for the Town. I am one of the founding members of the Connecticut Recyclers Coalition (CRC), an active member of the CRC Electronics Working Group, and was very active in the passage of Public Act 07-189, which this bill seeks to modify.

Branford has been running a permanent electronics recycling drop-off location at our transfer station for over 9 years – longer than anyone else in the state.

This bill seeks to do two primary things:

- 1) To change the definition of “manufacturer” to exclude entities who own or license a brand name but neither make nor sell Covered Electronic Devices; and
- 2) To change TVs from “return share” – getting an invoice based on how many of a manufacturer’s TVs were recycled, to “market share” – getting an invoice based on how many TVs a manufacturer sold.

The definition of manufacturer has to accomplish the following things:

- Each Covered Electronic Device must have an identifiable responsible entity associated with it;
- Each Covered Electronic Device must have exactly one identifiable responsible entity associated with it — not two or more to choose from;
- Each responsible entity must be one that can legally (think interstate commerce) and physically (think presence or assets in the US) be made to pay their invoiced costs (in other words, it must be enforceable).

The change proposed by this amendment should not be supported. There is strong national consensus building that the brand owner is a primary legal entity that should be the responsible party. That is true in the definitions in place in California, Maine, Maryland, Minnesota, North Carolina, Oregon, Texas, and Washington state. It is also the emerging federal consensus in 2 draft documents I have seen.

It strongly appears that both the amendment as proposed, AND the existing definition – particularly the concept about enforceably invoicing importers – may have problems with the definition, and the definition may have to be changed. It is an extremely complex subject. We oppose changing the definition of manufacturer as written in this bill to relieve brand owners of responsibilities as a manufacturer. We support reviewing the definition of manufacturer to make sure it accomplishes the goals outlined above.

We do not object to changing the TVs (not the computers) to market share instead of return share. It is probably a good thing. It has the advantage of having no historic “Orphan” TVs for which the cost must be divvied up amongst current entities, and it does not allow the creation of new orphan TVs for companies coming into business and rapidly disappearing before their brands appear in the waste stream. However, if that change to market share happens, then any definitions must be checked to make sure that 1) they work for both return share and market share – as computers would remain under return share, so we’d then have both; and 2) they work for both computers and TVs – as we clearly have both.

All that must happen without compromising the language that has been more carefully crafted than one might think to avoid problems with the Commerce Clause. The chance of unintended consequences is great, and this must be done carefully.

Market Share language throughout the amendment should be revised to make it clear that we are discussing weight of TVs, not volume, number of items, or sales revenue.

To be functional, any amendment also must set up a method of determining market share that matches the definition of “manufacturer” that is agreed to, and that is consistent with other parts of the bill. The amendment refers to publicly available National data, while other sections require state data. If no market share data exist that can be broken out by importer or overseas factory, for example, then importer or overseas factory is not a viable division to make. This should be the responsibility of the TV “manufacturers” who are advocating for these changes. The bill cannot be allowed to change to a funding mechanism that cannot be practically accomplished.

The definition of “manufacturer” is used to determine who pays for the recycling of the Covered Electronic Devices under a market share or return share-based approach, and who pays for the Administrative Costs of the program through the sliding scale registration fee. Changing definitions may yield different players for who pays for which pieces, and this must also be watched carefully, as in some cases, Administrative Costs may be greater to a manufacturer than recycling costs. Philosophically, I personally believe that there are Administrative Costs related to dealing with discontinued brands, and that even if we switch to market share for TVs (and therefore there are no orphan TVs to have their recycling costs split), it would still be appropriate for entities (whether brand owners, or factories or importers or some other flavor of “manufacturer”) who are still in business to pay some of those Administrative Costs.

Also, not addressed in this legislation is the provision to bill quarterly instead of monthly. Monthly appears to be standard in the industry and the reality of quarterly

billing is that an item the Recycler accepted and incurred costs for in January would not be billed until April, and the state would not become involved until it went unpaid for 90 days, so July before DEP intervened to get their costs covered, leaving over a 6 month float. I agree with some Recyclers that this could be prohibitive.

Addendum – Thought Exercise

Many of the terms used in this legislation become confusing. As I tried to sort out for myself who the various categories of players are, I used the following thoughts with mostly pretend names:

- I don't use the word "brand", but only "brand name" or "brand owner".
- a "brand name" is nothing but a plastic sticker. It is not a legal entity. Imagine a computer called *Yellow Banana* named after a cartoon character of the same name.
- a "brand owner" is the legal entity who can decide who gets to use the brand name. They might keep it for themselves; they might license it out. It might be the same words as the brand name, or it might easily not. Imagine *Yellow Banana* is owned by Disney who chooses a Chinese factory who makes computers to make it. Disney tells Xiang-Wa factory that the case has to be bright yellow. The brand owner might be considered the licensor.
- "Xiang-Wa Factory" is sometimes called the "manufacturer", a term in my mind that I try to reserve for the term "Manufacturer" that we are trying to define. The factory can also be considered the licensee.
- "Made in USA Factory" in Dayton, Ohio also got a license from Disney to put the *Yellow Banana* brand name on the computers it makes. It might have been during different years than Xiang-Wa Factory had the license, or it might not. They are also a manufacturer or licensee.
- Big Box Store X (BBSX) wants to sell *Yellow Banana* computers (because every 12-year-old girl wants one because the cartoon character is so cute!) They buy them from
- An importer called Fanto, which most people have never heard of and/or
- From Made in USA Factory.

So when a *Yellow Banana* computer shows up in the waste stream, who should get the bill to pay for it?

- Not *Yellow Banana* – it's not an entity;
- Not Xiang-Wa Factory – we have no means of collecting from them.
- Disney? Made in USA Factory? BBSX? Or Fanto?

That's what the definition of "Manufacturer" has to make clear. The entity has to be

- 1) someone that we can track down to send a bill to,
- 2) someone who can be made to pay the bill.
- 3) under Return Share they have to still be in business, and if they're not we'd like to have a successor entity responsible or else a formula to equitably have other Manufacturers pay for them as Orphans, or
- 4) under Market Share they have to be an entity for which Market data can be determined – how much of the pie did they sell last year? It does no good to try to collect from Fanto if Market data is not available divided by who imported how much.

Thank you for this opportunity to submit testimony.

Peg Hall
Connecticut Recyclers Coalition
Electronics Working Group &
Solid Waste Manager
Town of Branford
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Information Technology Industry Council
Leading Policy for the Innovation Economy

which recyclers are required to maintain a log identifying that CEDs were "generated by households in the state." However, ITI recommends the addition of a definition for "consumer" in SB 582 in order to clearly communicate the intent of the legislature that "consumer" indicates a "household" scope. ITI will willing to work with the legislature to determine an appropriate definition for consumer.

If you have any questions regarding these comments or would like further information, please contact Chris Cleet at ccleet@itic.org or 202-626-5759. We look forward to further engagement on this important emerging bill and welcome the opportunity to provide more information or background for your additional consideration.

Regards,

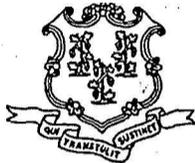
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Director of Environmental Affairs
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ABOUT ITI

The Information Technology Industry Council (ITI) represents the nation's leading high-tech companies and is recognized as one of the most effective advocacy organizations for the tech industry in Washington and internationally. ITI helps member companies achieve their policy objectives through building relationships with Members of Congress, Administration officials, and foreign governments; organizing industry-wide consensus on policy issues; and working to enact tech-friendly government policies.

CC: Members of the Joint Committee on the Environment

I called Env clerk
4-3-08 - This is all that
was submitted by
Chris Cleet - we're
not missing anything -
OK - JKR



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – March 7, 2008
 Environment Committee

Testimony Submitted by Commissioner Gina McCarthy
 Department of Environmental Protection

Raised Senate Bill No. 582 - AN ACT CONCERNING THE RECYCLING OF COVERED ELECTRONIC DEVICES

Thank you for the opportunity to present testimony regarding Senate Bill No. 582 - AN ACT CONCERNING THE RECYCLING OF COVERED ELECTRONIC DEVICES. This bill proposes making some adjustments to the landmark waste electronics legislation enacted last year. The Department agrees with some of these proposed changes and cautions the committee in part.

Since Public Act 07-189 was enacted last session the Department has been conducting a comprehensive stakeholder process to gather input as we work to draft the regulations necessary to carry out the collection and recycling of waste electronics, known in the act as “covered electronics devices” or CEDs. The act, premised on a producer responsibility model, focused on two major classifications of CEDs, televisions and computer related devices. The act sets up a three-part system for assuring recycling of CEDs. First, municipalities provide opportunities for the collection of CEDs at transfer stations or other collection venues, next approved electronic recyclers process the materials, finally these recyclers bill manufacturers for the cost of recycling. The billing as established in Public Act 07-189 was based on the share of products returned for a specific manufacturer and a pro rata share of orphaned devices. The law was set up to treat television and computer products separately but under the same system.

During the stakeholder process and through additional direct discussions with representatives of television manufacturers and companies that license their brand names it became clear that a preference existed among some of the television manufacturers to apportion the costs for transporting and recycling unwanted televisions based on market share rather than return share. One reason given for this preference was the significantly longer life cycle of television. The Department is willing to support the shift to a market share based apportionment for televisions if instructed to do so by the legislature since that approach ultimately maintains the responsibility for product producers to cover the costs.

The change proposed to the definition of manufacturer is more problematic. Eliminating those that license their brand or trademark would make implementation of the law much more difficult. These license agreements are private business relationships that exist between manufacturers and brand or trademark holders. In some cases multiple manufacturers operate under a single brand or trademark and it is our understanding that the data that would be relied on to apportion market share is not necessarily reported to this level of detail. Enforcement of the program would also be more difficult; the main incentive to participate in the recycling program is to be able to continue to sell your products in Connecticut. However, if only one of many manufacturers of a particular brand was non-compliant how would we instruct a retail establishment what could continue to be offered for sale.

Finally, if any changes are made to the law we would respectfully request that the implementation date for regulations be extended since the proposed changes would require that we revisit certain portions of the regulations that have already been drafted and reviewed with stakeholders.

(Printed on Recycled Paper)

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Thank you for the opportunity to present testimony on these Proposed bills. If you should require any additional information, please contact Tom Tyler, at 424-3099 or Robert LaFrance at 424-3401.

[Faint, illegible text]

PHILIPS**Philips Electronics North America Corporation**

March 6, 2008

The Honorable Edward Meyer
The Honorable Richard Roy
Chairs, Joint Committee on the Environment
Room 3200, Legislative Office Building
Hartford, CT 06106

RE: SB 582 – An Act Concerning the Recycling of Covered Electronic Devices

Philips Electronics is a member of the Electronics Manufacturers Coalition for Responsible Recycling (Coalition). The Coalition represents many of the largest consumer electronics companies in the world including JVC, Mitsubishi, Philips, Sanyo, and Sharp. The Coalition supports the provision in SB 582 that changes the obligations of television manufacturers from return share to current market share.

The television market is dynamic with companies leaving the business and many new companies entering the business and taking significant market share. The proposed change reflects these significant changes. It allows Connecticut to reduce costs by not having to sort returned products by manufacturers. It eliminates problems with orphan shares because current manufacturers pay for all costs. And it maintains a fair market place by not giving new manufacturers with no return share a competitive advantage over established manufacturers.

Please feel free to contact Carroll Hughes if you have any questions about our statement.

Sincerely,

Ric Erdheim

Ric Erdheim

1300 I Street NW, Suite 1070 East
Washington, DC 20005
Tel: 202-962-8550
Fax: 202-962-8560



Environment Committee Public Hearing
Friday, March 7, 2008

Testimony by
Kim O'Rourke
Recycling Coordinator
City of Middletown

SB No. 582 AAC The Recycling of Covered Electronic Devices – Concerned with Changes. Do not support proposed definition of manufacturer.

SB 585 AAC Underground Storage Tanks, Demonstration Projects, Beneficial use of Solid Waste, Aquaculture Structures, Sand Removal, Tipping Fees, The Solid Waste Account and The Coastal Management Act. – Support Sec. 6 which allows funds to be used for state and local recycling programs!

Good morning Senator Meyer, Representative Roy and members of the Environment Committee. My name is Kim O'Rourke and I am the Recycling Coordinator for the City of Middletown. Thank you for the opportunity to discuss these issues today. I am particularly concerned with SB 582, regarding recycling electronics and sections of SB 585 regarding funding for recycling.

Electronics Recycling – SB 582

First, let me thank you for your support in passing this legislation last year. I was involved in the effort last year to pass this legislation and believe you did a wonderful job on a complicated issue. The DEP has since been working diligently to implement this law. They've done a great job in seeking input and putting together regulations quickly. I honestly am not sure I'll agree with everything they come up with, but they should be commended for the effort they have put into this project.

As you know, this law was just passed last year and hasn't been fully implemented yet. I am disappointed changes are being proposed so soon. I am particularly concerned with the proposed changes with the definition of "manufacturer". This issue is extremely

complex. The current language was crafted with incredible detail. The specific revision to change the definition of manufacturer may make it more difficult for the state and the recyclers to identify the party that is responsible for the Covered Electronic Device. This definition is extremely important for the efficiency of the operation and administration of the program and I do not agree with excluding brand name owners who do not manufacture the products.

Funding for Recycling – Sec. 6 SB 585

I am pleased to see funding proposed for state and local recycling in Section 6 of SB 585. Recycling programs have been stagnant for some time. We've had no state funding for recycling for over ten years, however, municipalities are expected to move forward towards a 58% recycling goal. Municipal public education budgets have been whittled down to next to nothing. However, we can look to research and experiments, done in places as local as the Housatonic Region, the Tunxis Region and other CT municipalities which prove that public education is key to improving recycling rates.

I know from my own sixteen years of experience in Middletown that recycling improves when it is promoted. The City provides \$2000 in the local recycling budget to educate over 43,000 people. I am always working on ways to do things inexpensively and creatively, but its not the same as having some funds to do something as effective and simple as a town mailing, or running a commercial on TV or doing an ad campaign in the newspaper. Funds are desperately needed to help regions and municipalities promote their programs and help them reach the goals outlined in the State Solid Waste Management Plan. I would suggest that funds from this program be shared with regions and towns where it can effectively be used to meet each individual communities needs.

Thanks for your time and attention.

Kim O'Rourke
Middletown Recycling Coordinator
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March 7, 2008

Environment Committee

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cyril.may@yale.edu

Testimony on Raised Bills 582 and 585

Senator Meyer, Representative Roy, and Environment Committee members,

The Connecticut Recyclers Coalition appreciates this opportunity to offer the perspective of its professional and citizen membership on Bills 582 and 585.

Raised Bill 582, AN ACT CONCERNING THE RECYCLING OF COVERED ELECTRONIC DEVICES

This bill follows closely on the milestone that the General Assembly secured when it passed last year's bill for the recycling of computers and other electronics. The passage was a tremendous success. Thank you!

Raised Bill 582 is of some concern, however, as it may detract from the good work done last year. By changing the definition of a manufacturer, 582 may make it more difficult to ensure that the costs of recycling are passed along to the appropriate company. For example, a big box store may buy computers from a short-lived company overseas and put its own store name on as the brand name. Raised Bill 582 will assign responsibility to the overseas company and not the big box store in state. It is very difficult to track down such small, overseas manufacturers and to ensure their fair participation. This may leave municipalities, consumers and others involved paying the bill when it should be the seller of the item.

Raised Bill 585, AN ACT CONCERNING UNDERGROUND STORAGE TANKS, DEMONSTRATION PROJECTS, BENEFICIAL USE OF SOLID WASTE, AQUACULTURE STRUCTURES, SAND REMOVAL, TIPPING FEES, THE SOLID WASTE ACCOUNT AND THE COASTAL MANAGEMENT ACT.

Raised Bill 585 provides greatly needed income to the Solid Waste Account, usable by the Commissioner of Environmental Protection for worthy projects such as recycling and testing. This is vital if our state is to achieve its recycling goal of 58%.

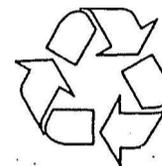
The CRC also approves of the allowance given to the Commissioner of DEP to license small demonstration projects that can, for example, further the goals set forth our state's solid waste management plan,

Thank you.

Cyril John May
President

Southeastern
Connecticut
Regional
Resources
Recovery
Authority

Office of the Regional Recycling Coordinator



March 7, 2008

Testimony on: Raised Bill No. 582 ✓
Raised Bill No. 5138

Raised Bill No. 582

On behalf of the Southeastern Connecticut Regional Resources Recovery Authority I wish to thank the Committee on Environment for this opportunity to testify. As you are aware, Connecticut is one of a handful of states that has progressively addressed the growing problem of scrap electronics through the implementation of producer responsibility. However, some of the revisions sought by Raised Bill 582 will adversely alter our existing law.

Each *Covered Electronic Device* must have some entity attached to it - some clearly identifiable firm that is responsible for each piece or unit of E-Waste. The State of Connecticut's *Approved Recyclers* - and the State itself must have a ready means to determine the manufacturer. Changing the definition of "Manufacturer" as outlined in Raised Bill 582 stands a strong chance of making this process much more opaque and the administration of the law much more difficult. This bill seeks to structurally change the funding mechanism - from a "return share" of E-waste - to a "market share" of E-Waste for some components. Pragmatically this may well be impossible to accomplish. Determining the responsible entity will be confusing. Allocation of administrative costs will be confusing. Connecticut's E-Waste law reflects many months of wrangling with all the concerned stakeholders. Now, prior to its first day of implementation Raised bill 582 seeks to effect substantive changes that raise far more concerns than any problematic nuances it may seem to resolve.