

**ASSEMBLY BILL**

**No. 48**

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**Introduced by Assembly Member Saldana  
(Coauthors: Assembly Members Alarcon, Berg, Hancock, Huffman,  
Laird, Leno, Levine, Lieber, Nava, and Ruskin)**

December 4, 2006

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An act to amend Section 25214.10 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as introduced, Saldana. Hazardous waste: electronic devices.

(1) Existing law requires the Department of Toxic Substances Control to adopt regulations to prohibit an electronic device from being sold or offered for sale in this state if the electronic device is prohibited from being sold or offered for sale in the European Union on and after its date of manufacture, due to the presence of certain heavy metals, as specified. Existing law requires these regulations to take effect January 1, 2007, or on or after the date the Directive 2002/95/EC, adopted by the European Parliament and the Council of the European Union on January 27, 2003, takes effect, whichever date is later. Existing law defines the term “electronic device,” for purposes of those provisions, with reference to the Electronic Waste Recycling Act of 2003, which defines the term “electronic device” as a video display device, as specified, that is identified by the department, pursuant to specified regulations, as a presumed hazardous waste when discarded.

A violation of the hazardous waste control laws, including a regulation adopted pursuant to those laws, is a crime.

This bill would define the term “ROHS directive” to mean that directive and would revise the definition of “electronic device” for

purposes of that sale prohibition to mean, instead, a device that is dependent on electric currents or electromagnetic fields to work properly or that is a device for the generation, transfer, or measurement of electric currents or fields; that falls within the scope of Article 2 of Directive 2002/96/EC; that is designed for use with a voltage rating that does not exceed 1,000 volts for alternating current and 1,500 volts for direct current; and that falls within the scope of Article 2.1 of the ROHS directive. The bill would exclude fixed installation electrical, or mechanical, or both electrical and mechanical, devices, as specified, from the definition of “electronic device.”

The bill would exempt, from the regulations adopted pursuant to those provisions: (A) an electronic device, or a component of such a device, that is not subject to the ROHS directive; (B) an electronic device, including a medical device, that contains a substance that is used to comply with consumer, health, or safety requirements that are required by the Underwriters Laboratory, the federal government, or the state; (C) a device that is refurbished or sold for reuse; and (D) a spare part used for the repair and extension of the lifetime of an electronic device. The bill would provide that electronic devices, or components of electronic devices, that are initially exempted by the ROHS directive but are subsequently subjected to the ROHS directive may not be prohibited from sale in the state until at least 24 months after the effective date of the sale prohibition in the European Union. The bill would require the regulations adopted by the department, except for those applicable to video display devices, as defined, to implement the changes made by the bill to take effect on January 1, 2010.

The bill would require the department’s implementation of these provisions to be consistent with all uniform implementation guidelines for the ROHS directive that are adopted by the European Union or by its member states, and would require the department, if it finds that the ROHS directive is not consistently implemented by the member states of the European Union, to implement these provisions consistent with a specified document.

The bill would require the department to adopt regulations establishing a process by which manufacturers or distributors of electronic devices or components of electronic devices may seek an exemption or time extension from the sales prohibitions.

Since a violation of those regulations would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 25214.10 of the Health and Safety Code  
2 is amended to read:

3 25214.10. (a) For purposes of this section, ~~“electronic device”~~  
4 ~~has the same meaning as a “covered electronic device,” as defined~~  
5 ~~in Section 42463 of the Public Resources Code.~~ *the following*  
6 *definitions shall apply:*

7 (1) *“Electronic device” means a device that meets all of the*  
8 *following conditions:*

9 (A) *The device is dependent on electric currents or*  
10 *electromagnetic fields to work properly or is a device for the*  
11 *generation, transfer, or measurement of electric currents or fields.*

12 (B) *The device falls within the scope of Article 2 of Directive*  
13 *2002/96/EC, adopted by the European Parliament and the Council*  
14 *of the European Union on January 27, 2003, and as amended*  
15 *thereafter by the Commission of European Communities.*

16 (C) *The device is designed for use with a voltage rating that*  
17 *does not exceed 1,000 volts for alternating current and 1,500 volts*  
18 *for direct current.*

19 (D) *The device falls within the scope of Article 2.1 of the ROHS*  
20 *directive.*

21 (2) *“Electronic device” does not include a fixed installation*  
22 *electrical, or mechanical, or both electrical and mechanical device*  
23 *that is electrically wired directly to the fixed electrical system, or*  
24 *connected to the fixed mechanical system of a structure, or both*  
25 *the fixed electrical and mechanical system; and cannot be readily*  
26 *disconnected without altering the electrical, or mechanical, system*  
27 *connections, or both the electrical and mechanical system*  
28 *connections. An electronic device that is portable and uses an*  
29 *electrical plug as the means to connect to an electrical source is*

1 *not a fixed installation electrical, or mechanical, or both electrical*  
2 *and mechanical, device.*

3 (3) “ROHS directive” means Directive 2002/95/EC, adopted  
4 by the European Parliament and the Council of the European  
5 Union on January 27, 2003, on the restriction of certain hazardous  
6 substances in electrical and electronic equipment, as amended  
7 thereafter by the Commission of European Communities (13.2.2003  
8 Official Journal of the European Union).

9 (b) (1) The department shall adopt regulations, in accordance  
10 with this section, that prohibit an electronic device from being sold  
11 or offered for sale in this state if the electronic device is prohibited  
12 from being sold or offered for sale in the European Union on and  
13 after its date of manufacture, to the extent that ~~Directive~~  
14 ~~2002/95/EC, adopted by the European Parliament and the Council~~  
15 ~~of the European Union on January 27, 2003, and as amended~~  
16 ~~thereafter by the Commission of European Communities, the ROHS~~  
17 *directive* prohibits that sale due to the presence of certain heavy  
18 metals, *except as provided in paragraph (2).*

19 (2) *An electronic device, or a component of an electronic device,*  
20 *that is exempt from the ROHS directive is exempt from any*  
21 *regulation adopted pursuant to paragraph (1).*

22 (3) *If an electronic device, or a component of an electronic*  
23 *device, that is initially exempted from the ROHS directive is*  
24 *subsequently prohibited from being sold or offered for sale in the*  
25 *European Union pursuant to the ROHS directive, that electronic*  
26 *device or component shall not be prohibited from sale in the state*  
27 *until at least 24 months after the effective date of the prohibition*  
28 *in the European Union.*

29 (c) (1) The regulations adopted pursuant to subdivision (b) as  
30 applied to a video display device, as defined in subdivision (u) of  
31 Section 42463 of the Public Resources Code, with a screen size of  
32 greater than four inches, shall take effect January 1, 2007, or on  
33 or after the date ~~Directive 2002/95/EC, adopted by the European~~  
34 ~~Parliament and the Council of the European Union on January 27,~~  
35 ~~2003, the ROHS directive~~ takes effect, whichever date is later.

36 (2) *Except as provided in paragraph (1), the regulations adopted*  
37 *to implement the changes made in this section by the act of the*  
38 *2007–08 Regular Session of the Legislature amending this section*  
39 *shall take effect January 1, 2010.*

1 (d) The department shall exclude, from the regulations adopted  
2 pursuant to this section, the sale of an electronic device; *including,*  
3 *but not limited to, a medical device that is listed under category*  
4 *8 of Annex 1A of Directive 2002/96/EC, adopted by the European*  
5 *Parliament and the Council of the European Union on January*  
6 *27, 2003, or as defined under the Federal Food, Drug, and*  
7 *Cosmetic Act, Chapter 9 (commencing with Section 301) of Title*  
8 *21 of the United States Code; that contains a substance that is used*  
9 *to comply with the consumer, health, or safety requirements that*  
10 *are required by the Underwriters Laboratories, the federal*  
11 *government, or the state.*

12 (e) In adopting regulations pursuant to this section, the  
13 department ~~may~~ shall not ~~require~~ *prohibit* the manufacture or sale  
14 of an electronic device that is different than, or otherwise not  
15 prohibited by, the ~~European Union under Directive 2002/95/EC,~~  
16 ~~adopted by the European Parliament and the Council of the~~  
17 ~~European Union on January 27, 2003~~ *ROHS directive.*

18 (f) (1) The department ~~may~~ shall not adopt any regulations  
19 pursuant to this section that impose any requirements or conditions  
20 that are in addition to, or more stringent than, the requirements  
21 and conditions expressly authorized by this section.

22 (2) In complying with this subdivision, the department shall  
23 use, in addition to any other information deemed relevant by the  
24 department, the published decisions of the Technical Adaptation  
25 Committee and European Union member states that interpret the  
26 requirements of ~~Directive 2002/95/EC~~ *the ROHS directive.*

27 (g) (1) *The department's implementation of this section shall*  
28 *be consistent with any uniform implementation guidelines for the*  
29 *ROHS directive that are adopted by the European Union, by its*  
30 *member states, or by both.*

31 (2) *If the department finds that any section of the ROHS directive*  
32 *is not consistently implemented by the member states of the*  
33 *European Union, the department's implementation of this section*  
34 *shall be consistent with the provisions of the Statutory Instrument*  
35 *2005 No. 2748 of the United Kingdom, as in effect on July 1, 2006.*

36 (h) (1) *The department shall adopt regulations establishing a*  
37 *process whereby a manufacturer or distributor of an electronic*  
38 *device or component may seek an exemption or time extension to*  
39 *a sales prohibition pursuant to this section upon demonstration*

1 to the department that the device or component meets the criteria  
2 developed pursuant to paragraph (2).

3 (2) In developing a process, including criteria, for evaluating  
4 a request for exemption and time extension, the department shall  
5 consult with effected stakeholders, including representatives from  
6 the manufacturers, distributors, and environmental groups.

7 (i) (1) In order to support the refurbishment and reuse of  
8 electronic devices, the department shall adopt regulations allowing  
9 an exemption from any sales prohibition pursuant to this section  
10 for devices that are refurbished, or sold for reuse, or both  
11 refurbished and sold for reuse.

12 (2) The department shall adopt regulations allowing for an  
13 exemption from the regulations adopted pursuant to this section  
14 for spare parts used for the repair and extension of the lifetime of  
15 an electronic device.

16 SEC. 2. No reimbursement is required by this act pursuant to  
17 Section 6 of Article XIII B of the California Constitution because  
18 the only costs that may be incurred by a local agency or school  
19 district will be incurred because this act creates a new crime or  
20 infraction, eliminates a crime or infraction, or changes the penalty  
21 for a crime or infraction, within the meaning of Section 17556 of  
22 the Government Code, or changes the definition of a crime within  
23 the meaning of Section 6 of Article XIII B of the California  
24 Constitution.