

(H. B. 2)  
(Conference)

**(No. 18)**

(Approved January 17, 2012)

## **AN ACT**

To establish the “Puerto Rico Electronics Recycling and Disposal Promotion Act,” adopt a public policy on the sound and environmentally sustainable management of electronic equipment and components; to define the terms and exceptions; to ban the disposal of cathode-ray tubes, electronic equipment, and cellular telephones as regular waste in landfills; to promote electronic equipment and cellular telephone import, distribution, and sales industries; to promote participation in an electronic waste Recycling and Disposal Plan approved by the Solid Waste Authority and the Environmental Quality Board, and provide the manner in which such plan shall be devised and adopted; to require a market analysis on the participation of importers and distributors of each type of equipment; to provide on the authority and powers of the different agencies and instrumentalities to implement, oversee, and regulate the provisions of this Act and the imposition of penalties; to establish regulations for electronic waste collection, processing, recycling, and disposal activities, and consumer access to such services, and to require compliance with the proper norms for final disposal; to establish specific procedures for the cellular telephone field; to require reports and manifests; to authorize inter-governmental agreements, and to establish the effective date and any terms for the implementation of this Act.

### **STATEMENT OF MOTIVES**

The Constitution of Puerto Rico directs that the actions of the government shall be geared to conserve, develop, and use its natural resources in the most effective manner possible, as well as to their fullest development and optimal use for the general welfare of the community; and that laws shall be enacted for the protection of life, health, and general welfare of the people. Furthermore, the

Constitution framed an aspiration to guide the spirit of this document—that the progressive development of the economy shall be sought through the greatest possible expansion of its system of production as necessary to protect the rights of the people.

In order to conform to these constitutional mandates, the public policy of the Government of Puerto Rico shall be to take the necessary measures to reduce the impact of technological developments on the environment and promote the reduction, reuse, and recycling of used equipment and products, the recovery of their components and materials, and the proper disposal of any residues thereof that are not reusable, recyclable or recoverable.

The fast-paced development of technology over recent years has led to an increasing use of electronic equipment and systems in homes and workplaces. For instance, currently, cellular telephones, which twenty years ago were only used by chief executives and other professionals holding key positions, have become an almost omnipresent commodity, used even by children. Personal computers, which were introduced in the business market in 1981 and to the mass market in 1984, are now almost in every household. Not to mention that electronic devices of all kinds have proliferated to such an extent that in some households each family member has his/her own television set, telephone, audio equipment, video game console, and other similar items.

Furthermore, the speed at which improvements to these items are introduced and at which their prices drop, creates a market phenomenon in which a product is no longer in high demand and quickly becomes obsolete. The so-called Moore's Law sets forth that the technological capacity that may be acquired for the same price will approximately double in less than two years and creates a demand in the market for a newer or better product even if the one you have may still be

functional. Despite the market's level of saturation, the continuous introduction of new applications and technologies leads to an increasing presence of discarded technological devices in domestic and commercial solid waste.

Electronic devices have become an issue with regard to their disposal, since their material constituents become toxic if released into the environment without the appropriate control. A study funded by the United States Environmental Protection Agency (EPA) showed that the amount of lead contained in cellular telephones could warrant their classification as "hazardous waste" when disposed of. Cathode-ray tubes, known as television and monitor "screen tubes," pose an even higher risk. CRTs have a high concentration of lead and cadmium, which are highly toxic heavy metals.

On the other hand, experts have stated that even though batteries used for electronic devices, though more or less prone to accidents if improperly used, are not hazardous to health when in their normal use, these should not be disposed of together with common waste, since most use nickel-cadmium batteries, or hybrid metallic or lithium batteries, which are substances that are potentially hazardous to health if not disposed of properly. Other components of electronic devices contain higher or lower amounts of substances such as mercury, chromium, solvents, bromine compounds, and other chemical substances that, if mismanaged, may accumulate in the environment and transfer to water, air, soil, and to the general ecosystem, thus causing potentially serious harm to indirectly exposed people. Consequently, the European Union has included these devices under the Restriction of Hazardous Substances Directive (ROHS).

Therefore, it is our duty to prohibit the disposal of this kind of waste as common waste; however, such a prohibition would not suffice and could be counterproductive if consumers are not provided with the proper means to dispose of them. Most of Puerto Rico's landfills do not have enough capacity and are

reaching their limits, which may lead to an environmental crisis in Puerto Rico. This compels us to encourage business and citizens that use electronics and telephone devices as part of their operations to take responsibility and to recycle and reuse such devices. Thus, it is necessary to set forth a public policy and a recycling, recovery, and proper disposal system through a program that promotes awareness among citizens and social responsibility among business.

EPA statistics reveal that electronics recycling rates in the United States have been increasing at a rapid pace; however, other areas still are lagging, for instance, the cellular telephone recycling rate which was only 8% in 2009. This is a percentage rate relatively well below its potential, if we take into account that these devices contain large amounts of recoverable parts, such as metals, plastics, semiconductors, glass, and even precious metals (gold and silver are used in precision electrical connectors). Also, as previously stated, often a certain unit or its components may not be the latest trend in the technological market, but it may still be in optimum working order.

At the international level, one of the main concerns arising from this process is that there may be a great recovery value in the components of these devices, but the lack of a disposal and recovery strategy may lead to their mismanagement. Oftentimes, these devices are exported to other places around the world with little or no regulations, the people charged with this function lack the proper protection for their safety and health, thus being directly exposed to high concentrations of toxic material, and those components that are not reused are simply discarded and released into the environment without further consideration. To prevent these situations from occurring, it is necessary for the concerned agencies and the industry that manufactures, distributes and/or sells these units to devise a coordinated plan for the proper disposal of electronic equipment.

First of all, this kind of plan encourages the industry to assume its social responsibility as a good corporate citizen to do its part in the recovery of the equipment that it introduced into the market. Second, overseeing agencies shall establish regulations that clearly promote the development of a recycling, reuse, and recovery industry, including the development of a market for these products that will go beyond storing such wastes. Lastly, this measure seeks to raise social awareness in both corporations and citizens, in order to preserve the environment. Of course, this strategy may be subsequently adjusted and refined as we go along; however, it is important to begin the decision-making process as soon as possible and to establish coordination between the parties involved.

In view of the foregoing, this Legislative Assembly deems it necessary to encourage the disposal of electronic equipment, directed toward the reuse, recycling, and proper disposal of such equipment so as to protect human health and the environment.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Article 1.- Short Title and Public Policy.

Section 1.01.- This Act shall be known as the “Puerto Rico Electronics Recycling and Disposal Act.”

Section 1.02.- Through this Act, the Legislative Assembly sets forth as public policy:

1) To reduce the sources of hazardous and non-hazardous solid waste from disposed, discarded, obsolete or useless electronic equipment, and promote the recycling, reuse, and refurbishment of any equipment that may be reused, or the processing thereof by disassembling, separating, and collecting their components for their environmentally sustainable disposal. Furthermore, this public policy shall promote the management, storage, and disposal of discarded electronic equipment and their parts in an environmentally sound and socially responsible manner.

2) To promote the creation of a safe and environmentally sustainable management system for electronic equipment and components, foster the design and use of such equipment and components so as to minimize their environmental impact, and encourage the reuse, recycling, and recovery thereof and the development of electronic equipment collection and processing systems.

3) To promote the creation of business engaged in the environmentally-recycling, collection, and disposal of electronic equipment.

Article 2.- Definitions and Exceptions.-

Section 2.01.- The following words or terms, wherever they are used or referred to in this Act, shall have the meaning stated hereinbelow, except where the context clearly states otherwise:

a) Authority.- Means the Puerto Rico Solid Waste Authority.

b) Consumer.- Means the purchaser, lessee or owner of equipment; in the case of cellular telephone or cable television equipment, it means the user subscribed to such service. Consumer shall be any natural person, business, corporation, partnership, nonprofit organization or government agency. The term consumer shall not include those entities involved in wholesale transactions with distributors, communications carriers, and retailers.

c) Retailer.- Means a natural or juridical person that sells or leases equipment to consumers. It includes:

1) Any manufacturer, importer or distributor that sells or leases new or refurbished equipment directly to the consumer.

2) Any cellular telephone or cable or satellite television provider that sells or leases equipment through its own offices or franchise holders.

3) Any reseller of cellular telephone, cable or satellite television equipment and services.

d) Proper Disposal.- Means that the electronic waste which is not subject to recycling or reuse is processed so as to minimize its impact on the environment and public health.

e) Final Disposal.- The removal of disposed, discarded, obsolete or useless electronic equipment waste stream, whether in whole or in part. It includes both the export and sale of recycled or refurbished electronic equipment or of products manufactured with recovered materials. With regard to export, this shall be carried out in compliance with the laws and regulations in effect, including the provisions of this Act regarding the ban on the disposal of cathode-ray tubes, electronic and cellular telephone equipment by transporting them to a jurisdiction with less stringent environmental, health, and occupational safety laws and regulations for their final disposal and destruction.

f) Distributor.- Means any natural or juridical person that sells or supplies electronic equipment to retailers.

g) Communications Carrier.- Means any entity that operates a communications infrastructure or resells access thereto or operates or resells communications service or location and with which the consumer enters into a contract to subscribe to or purchase pre-paid services in order to activate and use electronic equipment. This term also includes telephone or cable television companies, as defined in the Puerto Rico Telecommunications Act of 1996, information service providers, and cellular communication carriers.

h) Cellular Telephone Equipment.- Means a wireless communication mobile device designed to send or receive telephone transmissions and/or data through a radio communication service by means of a subscription to a cellular communication carrier. It includes:

1) Cellular telephones, including their removable component parts necessary for their operation, such as batteries and SIM chips;

2) Devices such as hand-held electronic organizers or computers designed for or with built-in cellular telephone capacity, such as Blackberry or iPhone brands, among others, and which are activated through a service subscription or pre-payment to a cellular telephone carrier;

3) Beepers operating within a cellular network;

4) Electronic accessories included in the communication device by the manufacturer or offered by the cellular telephone carrier as part of the sale or lease of such equipment, such as chargers, wireless headsets, additional batteries or synchronizers;

5) Any personal communication device the activation of which requires pre-payment or subscription to a cellular telephone carrier, and that is developed and introduced into the market by such carriers as of the effective date of this Act.

For the purpose of this Act, the definition of subsection (h) shall not be applied to built-in wireless communication or tracking devices installed in any vehicle or vessel (OnStar, LoJack, etc.), or to cards or peripheral add-ons used to provide desktops and laptops with access to wireless non-telephone networks (WiFi, 3G, etc.)

i) **Electronic Equipment.**- For the purpose of this Act, any electricity-powered equipment or device, controlled by electronic components, such as transistors and elements associated to this technological family, including integrated circuits, resistors, and capacitors as described below, be it understood that when reference is made to “equipment” it shall mean any of the following:

1) Cellular telephone equipment as defined in subsection (h) of Section 2.01 above.

2) Television sets and video monitors, without it being limited to those that use cathode-ray tubes, as well as liquid crystal display (LCD) or plasma flat screens, projection systems or light emitting diode (LED).

3) Desktop or laptop computers and their peripheral equipment such as keyboards, mice, speakers, docking stations, cables, and similar artifacts.

4) Modems, expansion cards, disc units, routers, etc., whether wireless or wired.

5) Information systems such as servers, including their data storage components, terminals, switches, racks, battery backups, cables, and related artifacts.

6) Surveillance camera systems, including their components: monitors, video recording systems, cables, and related artifacts.

7) Analogue or digital telephone switchboard, including any terminals, cables, and related artifacts.

8) Telecommunications systems, including their antennas, servers, cables, and related artifacts.

9) Copiers, printers, fax machines and ink cartridges or toners thereof, and scanners.

10) Electronic organizers, portable video games, and tracking or satellite navigation GPS units.

11) Radio, television, or wireless information transmitters of any band or frequency.

12) Amplifiers, equalizers, and digital audio and/or video editing or control consoles.

13) Digital or satellite television boxes or receivers and tuners.

14) Tape or optical-digital players or recorders.

15) Domestic or commercial video game consoles.

16) Any of the above equipment that may be installed on vehicles or vessels as an optional accessory, but that it is not.

17) Electric power supply inverters and rectifiers.

18) Clocks, chronometers, and any other portable digital instrument used to measure the distance traveled, monitor the heart rate of a runner, and other variables when performing physical exercise.

Furthermore, even if they lack built-in integrated circuits or transistors, this definition shall include all rechargeable batteries made of mercury, nickel, or lithium or compounds thereof used in the listed equipments.

Provided that, in order to construe this subsection (i), there shall be considered any given equipment as a whole, together with its main purpose and function, as designed and used, and the combination of components thereof. As defined in this subsection (i), this Act shall not apply to motor vehicles, ships, aircraft, agricultural or manufacture machinery, kitchen, laundry, and refrigeration appliances, whether commercial or domestic due to the fact that they contain one or more components which by themselves may be included within this list insofar as such components are built-in and permanently installed. Moreover, it shall neither apply to antennas that do not have processing circuits or communication or electric power supply cables or wires.

j) Used Electronic Equipment.- Means equipment previously used and that is available for reuse, recycling, or proper disposal by the consumer.

k) Orphan Electronic Equipment.- Means any electronic equipment, as defined in this Act, the manufacturer, importer, or distributor of which has ceased operations or is no longer in business in Puerto Rico and has no successor business that assumes the responsibility to provide service for such equipments. Furthermore, electronic equipment acquired over the Internet or through foreign

catalogues that are introduced into the territory through the Postal Service or private merchandise carrier services, the supplier of which has no branches in Puerto Rico.

l) Hard-to-Handle Electronic Waste.- Means equipment which processing or recycling is rendered difficult whether due to the lack of market or because its content materials have hazardous material characteristics such as televisions, whether or not these equipment have cathode-ray tubes (CRT), batteries, artifacts containing mercury, polychlorinated biphenyl (PCB) or any other polluting materials with hazardous material characteristics.

m) Exporter.- Means a natural or juridical person engaged in the business of shipping outside of Puerto Rico disposed, discarded, obsolete or useless electronic equipment, whether in whole or in parts or the materials resulting from the processing or recycling thereof.

n) Manufacturer.- Means the equipment manufacturing business or its authorized representative in Puerto Rico. It includes business engaged in the refurbishing or restoration of equipment the main parts of which have been previously manufactured and used. It also includes, in the case of equipment to which this Act applies, the removal of integral components to be installed in another unit of the same kind of equipment.

o) Importer.- Means any business or individual that introduces electronic equipment to Puerto Rico to be sold or used; including such distributors and retailers that purchase an inventory of these equipments directly from a manufacturer or supplier outside of Puerto Rico.

p) Board.- Means the Puerto Rico Environmental Quality Board.

q) Processor.- Means a natural or juridical person engaged in electronic equipment processing.

r) Processing.- Means disassembling of disposed, discarded, obsolete or useless electronic equipment with the purpose of exporting its parts or materials or delivering them to Recyclers. It includes shredding of plastic from electronic equipment.

s) Recycler.- Means a natural or juridical person that recycles disposed, discarded, obsolete, or useless electronic equipment as defined in this Act.

t) Recycling.- Means a process whereby obsolete, disposed or discarded, or useless or out of service electronic equipment is separated, segregated, processed, refurbished, and reused in their original form, as raw material, or by-product. It includes, in the case of equipment to which this Act applies, the disassembling and removal of basic parts or components to be incorporated to any other kind of equipment, as well as the recovery of material from which they were manufactured for their subsequent use.

u) Collector.- Means Collection Center Operator. Any person required under this Act or authorized by the Board to receive electronic equipment directly disposed of by consumers. An electronic equipment retailer is usually a collector.

v) Reuse.- Means the use of goods, more than once, for the purpose for which they were originally created or for any other purpose that do not require processing of such goods beyond maintenance. It includes, in the case of equipment to which this Act applies, the removal of integral components to be installed in another unit of the same type of equipment.

w) Cathode-ray Tubes.- Means a phosphor-coated vacuum crystal tube used to general visual images in televisions, monitors, oscilloscopes, similar scientific equipment.

x) Sale.- Means the transfer of title or right of ownership or to use, through a sales contract, through sales centers, catalogues, or electronic media.

Article 3.- Ban to Dispose as Regular Waste. Inclusion of Electronic Waste in the Special Waste Category.

Section 3.01.- Eighteen (18) months after the approval of this Act, no person shall dispose of cathode-ray tube, or electronic or cellular telephone equipment, as defined in Section 2.01 (h) and 2.01 (i) in sanitary landfills, municipal dumpsites or any other site within the jurisdiction of Puerto Rico, save for a collection center that is part of a Recycling and Disposal Plan approved by the Solid Waste Authority and the Environmental Quality Board. To such effects, the Board shall include discarded electronic equipment in the Special Waste category under its jurisdiction and shall oversee compliance with the provisions of this Section.

Article 4.- Electronic Equipment and Cellular Telephone Mandatory Recycling.

Section 4.01.- Any private sector entity that employs eleven (11) or more persons shall have the following obligations:

a) Establish a recycling, reuse or refurbishing program for any electronic or cellular telephone equipment used to carry out its operations in Puerto Rico in compliance with Act 416-2004, as amended, known as the “Environmental Public Policy Act,” and with Act 70-1992, as amended, known as the “Puerto Rico Solid Waste Reduction and Recycling Act”; and

b) Electronically file an annual report with the Authority, pursuant to regulations, attesting to the mechanisms used for electronic and telephone equipment recycling, reuse, and refurbishing.

Article 5.- Voluntary Program to obtain Green Business Certification.

Section 5.01.- Any private sector entity that is willing to receive from consumers electronic or cellular telephone equipment for the recycling, reuse or refurbishment thereof, pursuant to the provisions of this Act, shall be entitled to obtain the following:

a) A Green Business certification issued by the Environmental Quality Board and the Solid Waste Authority that may be displayed by the business through the medium of its choice;

b) Recognition in a list to be published in the websites of the Board and the Authority asserting that the business has met all the requirements established in this Act to obtain such Certification.

Article 6.- Electronic or Cellular Telephone Equipment Import, Distribution, Sale or Lease Requirements.

Section 6.01.- Six (6) months after the approval of this Act, exclusive electronic and cellular telephone equipment manufacturers, importers, and distributors in Puerto Rico shall be responsible for the destination of the electronic equipment once they reach the end of their useful life or the consumer decides to return or dispose of them. They shall coordinate with retailers that sell this kind of equipment and are bound to receive even orphan and refurbished equipment, the collection of any equipment once the consumer acquiring it decides to return or dispose of the same. Any electronic or cellular telephone equipment manufacturer, importer and distributor in Puerto Rico shall register with the Environmental Quality Board by submitting the following information:

- 1) Letter of intent to engage in the sale of electronic equipment.
- 2) Proof of adoption of a Recycling and Disposal Plan as provided in Section 6 of this Act.

Section 6.02.- The Board and the Authority shall keep an official list of entities and organizations that wish to obtain the Certification provided in this Act. Such list shall be up to date and available over the Internet and on printed copies to inform the public and any entities interested in using their services.

Section 6.03.- Six (6) months after the approval of this Act, retailers of electronic equipments shall provide information to consumers on the benefits of recycling and the options provided by the industry to carry out such process, as well as to promote and incentivize the same. Such information shall be conspicuously displayed and accessible to the consumer in the place of sale, lease or service and make reference to the options available for the recycling and proper disposal of used equipment. This information shall include a statement of the business obligation to receive electronic equipment once it is discarded by the consumer.

Article 7.- Recycling and Disposal Plan.-

Section 7.01.- One year after the approval of this Act, electronic equipment manufacturers, importers, distributors, and retailers, as well as cellular telephone and cable television service providers doing business in Puerto Rico that wish to obtain the Certification provided under this Act shall have or avail themselves of a Recycling and Disposal Plan that includes the measures to be taken for the collection and storage of the equipment to be recycled and identifies the entities that shall recycle the collected equipment and the method employed to process such equipment. This information shall include, but not be limited to:

- a) The recovery and collection methods and sites, as well as the business or persons that shall perform such functions.
- b) The projected volume of the equipment to be processed during the following year.
- c) The specific description of the processes to be employed for the recycling, reuse, collection, and proper disposal of waste.
- d) A report on the units collected and processed during the previous year and the final destination thereof.

Section 7.02.- The Recycling and Disposal Plan may be designed and individually devised by the business, or may be designed or devised by a contracted business or association or business or trade consortia, in which case the Plan shall encompass the electronic equipment unit volume generated by all the participants. Furthermore, the Plan shall describe in detail the frequency with which such business shall implement its open-door policy to receive electronic and telephone equipment sold by them. Such open-door policy shall be implemented at least once a year.

Section 7.03.- The Recycling and Disposal Plan shall be submitted to the Authority for the review and approval thereof. Any entities that are doing business six (6) months after the approval of this Act and wish to obtain a Certification shall submit their plan as provided through regulations. Any other entity that starts doing business after such period and wishes to obtain a Certification shall submit their plan as provided through regulations; however, the Authority may design and manage the electronic equipment Recycling and Disposal Plan of any business that so requests. Such request shall be officially made and approved by the Authority prior to commencing operations. Provided that, the Authority shall be empowered to impose to any entity that has requested the authority to devise its plan, any fees it may deem pertinent for the devising thereof.

Section 7.04.- Any change in the provisions of the Recycling and Disposal Plan made by the business shall be notified to the Authority within sixty (60) days of its effective date.

Section 7.05.- Any business subject to the authority of the Puerto Rico Telecommunications Regulatory Board that offers or introduces services including the sale or lease of electronic equipment and wish to obtain the Certification provided under this Act shall submit to the Regulatory Board proof of the filing of its Recycling and Disposal Plan with the Authority.

Section 6.06[sic].- Noncompliance with this Section shall be subject to the penalties established in Act 70-1992, as amended, known as the “Puerto Rico Solid Waste Reduction and Recycling Act.”

Article 8.- Authorities and Duties of Commonwealth Agencies and the Municipalities.-

Section 8.01.- Environmental Quality Board.

a) Shall regulate the management, disposal, reuse, and recycling of electronic equipment in Puerto Rico by establishing any requirements it may deem necessary to protect the environment and the public health in accordance with Act 416-2004, as amended, known as the “Environmental Public Policy Act,” and with “Act No. 70-1992, as amended, known as the “Puerto Rico Solid Waste Reduction and Recycling Act.”

b) Shall oversee compliance with the provisions of this Act, pursuant to its duties and authorities.

c) Shall issue, modify or revoke any licenses and permits granted under this Act, and verify through inspections environmental compliance by the facilities that manage disposed, discarded, obsolete or useless electronic equipment.

d) Shall elaborate and implement a system of operation and monitoring to ensure that disposed, discarded, obsolete, or useless electronic equipment are properly stored in the different centers authorized to receive them; properly transported to collection and recycling centers; and finally disposed of in a proper manner, whether within Puerto Rico or as export materials.

e) Shall have the faculty to establish and coordinate moratoria to ensure compliance with the provisions of this Act should an emergency situation arise.

f) Shall keep a list of electronic and cellular telephone equipment manufacturers, importers, and distributors enumerating such persons and business that comply with the provisions of Article 5 of this Act.

g) Shall retain the manifests of collected, transported, and processed electronic equipment and furnish this information to the Authority. In addition, it shall be responsible for verifying the accuracy of such manifests.

h) Shall furnish to the Authority any information necessary to enable it to draw up its annual report herein required on the management of disposed, discarded, obsolete, or useless electronic equipment in Puerto Rico.

i) Shall provide technical assistance to any person that, per requirement of this Act or its own initiative, whether for profit or not, establishes a collection center or transportation, recycling or disposal facility for disposed, discarded, obsolete or useless electronic equipment and promote the good use and operation thereof. Provided that, any assistance shall require:

1. A certification that the equipment recovered by collectors was received from consumers or businesses within the jurisdiction of Puerto Rico.

2. A certification that the final destination of the products complies with the provisions of this Act, the Enabling Act of the Authority, and the Environmental Public Policy Act.

j) Shall submit, together with the Authority, an annual report on the progress of the implementation of this Act to the Legislative Assembly.

k) Shall be empowered to impose the sanctions and administrative fines to be determined through regulations, for violations of this Act and the orders, rules, and regulations issued and approved thereunder.

1) Shall promulgate regulations as necessary for the granting of licenses to operate collection, storage, recycling, processing or final disposal facilities of electronic or cellular telephone equipment or cathode-ray tubes. The Regulations herein directed shall be approved on or before six (6) months after the approval of this Act.

Section 8.02.- Solid Waste Management Authority.

a) The Authority shall be responsible for coordinating with the Board the implementation of this Act.

b) Shall provide that all private business with eleven (11) or more employees shall file, in an annual report rendered pursuant to their regulations, proof of the mechanisms employed to recycle, reuse or refurbish electronic or telephone equipment.

c) Shall establish an educational program to provide orientation on the importance of the proper disposal of electronic equipment and coordinate its implementation with the Board.

d) Shall raise awareness about the reduction of electronic waste and promote the refurbishment and reuse of disposed, but still in working order, electronic equipment in Puerto Rico. It shall also establish an effective coordination with those that refurbish and use refurbished equipment.

e) Shall compare the information contained in the manifests of the Environmental Quality Board with the information contained in the Recycling and Disposal Plan of manufacturers, importers, and distributors, so as to determine compliance thereof.

f) Shall conduct a market characterization study of electronic waste in Puerto Rico and shall prepare a general strategy to manage electronic and cellular telephone equipment, and cathode-ray tubes, all of which shall be carried out in coordination with registered manufacturers, importers, and distributors, as well as processors and collectors.

g) Shall provide assistance in technical matters as well as in transacting financial aids for any person that establishes by requirement of this Act or in his/her own initiative, whether for profit or not, a collection center or a transportation, recycling or disposal facility for disposed, discarded, obsolete or useless electronic equipment, and shall promote the good use and operation thereof. Provided that, any assistance shall require:

1. A certification that the equipment recovered by collectors was received from consumers or business within the jurisdiction of Puerto Rico.

2. In the case of collectors or transporters, a certification that there is a demand from recycling or disposal processors to be able to absorb the volume of materials to be collected.

3. In the case of recycled products or raw materials collected by processors, a certification that there is a market demand independent from the Government of Puerto Rico, its Municipalities or public corporations.

4. A certification that the final destination of the products complies with the provisions of this Act, the Enabling Act of the Authority, and the Environmental Public Policy Act.

h) Shall file, together with the Board, an annual report with the Legislative Assembly on the implementation of this Act. The Authority shall establish the proper guidelines to ensure that this report includes the necessary data that would allow for the assessment of the progress of the public policy set forth in this Act.

i) Shall establish, promote, and advertise a program to recognize such trades or entities, whether for profit or not, which are certified pursuant to this Act and that serve as example of compliance with these objectives.

Section 8.03.- Municipalities.

a) To coordinate, with the support of the Authority and the Board, the control and supervision of any person that stores disposed electronic equipment to ensure compliance with the requirements provided in this Act.

b) The municipalities shall approve ordinances in accordance with the provisions of this Act to make compliance therewith and the development and implementation of activities for the management and disposal of discarded electronic equipment feasible.

c) The municipalities shall not allow companies whose municipal nonhazardous solid waste transportation services have been contracted to transport disposed electronic equipment together with nonhazardous solid waste or to be deposited in sanitary landfills or dumpsites.

Article 9.- Free Competition.-

Section 9.01.- None of the provisions of this Act shall be construed as nullifying or repealing of any public or private collection and recycling programs in effect, or preventing or hindering in any manner any entity from offering collection services for recycling.

Section 9.02.- None of the provisions of this Act shall be construed as preventing or limiting the organization of business, consortia, cooperatives or private associations that are independent from the Commonwealth or any municipal government, manufacturers, importers or distributors of electronic or cellular telephone equipment or cathode-ray tubes for the purpose of carrying out for profit or nonprofit activities to recycle, reuse or dispose of these equipments provided that, they comply with the environmental protection regulations.

Section 9.03.- None of the provisions of this Act shall compel the Board or the Authority to grant a preferential, exclusive or protected franchise to any entity or group or classification of entities engaged in the collection, transportation, recycling or disposal of electronic or cellular telephone equipment or cathode-ray tubes anywhere within the jurisdiction of Puerto Rico.

Article 10.- Provisions that shall Apply Specifically to Cellular Telephones.-

Section 10.01.- When a consumer wishes to dispose of his/her cellular telephone equipment, he/she may do so at any of the facilities made available by the cellular telephone retailer that sold or leased the equipment without it being construed as an obligation or a limitation.

Section 10.02.- Any cellular telephone retailer that wishes to obtain the Certification provided by this Act shall identify, designate, and keep available an area within its place of business for delivery, receipt, and storage of used cellular telephones that may be reused, recycled or properly disposed of.

Section 10.03.- If a cellular telephone retailer wishes to obtain the Certification provided by this Act, it shall provide a proper recovery and collection system for used cellular telephones to be reused, recycled or properly disposed of. Such system shall include, without it being understood as a limitation:

a) A procedure whereby consumers shall be able to return used cellular telephone equipment to the cellular telephone retailer that sold or leased such equipment.

b) A procedure whereby consumers shall hand in cellular telephone equipment to any retailer, regardless of the retailer from which the equipment was acquired, whenever the consumer wants to purchase or lease new equipment.

c) A procedure whereby consumers shall be allowed to return free of charge their used equipment to the cellular telephone retailer for the latter to reuse, recycle or dispose of the same whenever new equipment is delivered or shipped by cellular telephone retailers to consumers.

d) Procedures whereby consumers shall deliver their used equipment directly to the service provider in those cases in which a cellular telephone service provider sells pre-paid cellular telephones to retail merchants not exclusively engaged in the electronics or telecommunications field.

e) The identification of the reuse, recycling or proper disposal methods to be used.

f) Information to consumers on the benefits of recycling and the options provided therefor by cellular telephone retailers, or in its default, by the Authority, as well as to promote and incentivize recycling. The information to be furnished shall at least:

1) Be conspicuously displayed and accessible to consumers in the place of sales;

2) Be included whether textually or through a website link as part of the attachments to the sales, lease or service contract at the time of the sale or lease of the equipment;

3) Make reference to the options available for recycling and proper disposal of used equipments;

4) Be provided by the seller directly to the consumer at the time of the sale or lease of the equipment. This shall not apply to those retailers not affiliated to a cellular telephone company that sells pre-paid cellular telephones and do not require the execution of a contract as a sales condition.

Article 11.- Regulations for Entities Engaged in Management and Disposal of Discarded, Obsolete or Useless Electronic Equipment.-

Section 11.01.- Collectors and Transporters.-

a) Any natural or juridical person may establish, with the prior authorization of the Board, a site to recover disposed, discarded obsolete or useless electronic equipment which shall subsequently be transported directly to a recycling, storage, processing or final disposal facility. Such collection centers shall comply with the applicable environmental and zoning laws and regulations.

b) Any transporter or manager of disposed electronic equipment shall be duly authorized by the Board, prior to commencing operations.

c) The Board shall regulate the amount of disposed, discarded, obsolete, or useless electronic waste that a collector or transporter may accrue and/or transport according to its location and capacity.

Section 11.02.- Disposed, Discarded, Obsolete or Useless Electronic Equipment Recycling, Processing, or Final Disposal Facilities.-

a) Any person who applies for a license or permit to establish a disposed, discarded, obsolete, or useless electronic equipment recycling, processing, or final disposal facility shall submit an operating plan with the description of the processing, recycling, or export activities to be carried out. The operating plan shall include, among others, the following:

- 1) The nature of the activity;
- 2) The capacity of the equipment to be used;
- 3) An inventory based on volume and weight;
- 4) The operating and maintenance capacity;
- 5) The recycling method, whether it is refurbishing, processing through disassembling, separation, and recovery of materials, or others;

6) Proof of proper storage capacity, without leaving the equipment unprotected;

7) Proof of market existence and statement indicating its commitment to dispose of material;

8) Method used to comply with the applicable laws and regulations;

9) Health and safety program that shows a proper management of the equipment and guarantees public safety, the health of its employees, and the quality of the environment;

10) Proof of having a public liability insurance policy in effect; and

11) If engaged in export activities, a description of whether the equipment shall be exported in whole or disassembled. This plan shall be reviewed by the Board in coordination with the Authority and, if endorsed, it shall be referred to the Board for its consideration as a requirement for final approval of the requested permit.

b) Any person engaged in activities of recycling, processing, or final disposal of disposed, discarded, obsolete, or useless electronic equipment shall obtain the corresponding licenses from the Board in coordination with the Authority and shall comply with all the requirements established in the applicable laws and regulations. The Board shall regulate the amount of unprocessed or partially processed materials that may be stored in a facility before their delivery for final use or disposal.

c) Any person that operates a recycling, processing or final disposal facility shall annually submit to the Board and the Authority the following documents, among others:

1) A report on the amount of recovered electronic waste;

2) A report on the amount of disposed, discarded, obsolete or useless electronic equipment that has been processed or recycled;

- 3) An update of the safety plan, if necessary;
- 4) A report identifying the facilities; and
- 5) A copy of the permits and licenses required by the Government of Puerto Rico.

d) The Board shall promote the development of companies that invest in the machinery to be used in the processing of materials and refurbishment of electronic equipment.

e) The Board shall also promote with the advise of the Authority:

- 1) The refurbishment or repair of disposed, discarded, obsolete or useless electronic equipment for their reuse.

- 2) The mechanisms and alternatives for the disposal of hard-to-handle electronic waste, the processing or recycling of which has no market. This includes management of polluting materials with hazardous material characteristics.

Section 11.03.- Export of Disposed, Discarded, Obsolete or Useless Electronic Equipment.-

Any person engaged in the export of electronic equipment shall obtain a permit from the Board and meet the requirements provided in the applicable laws and regulations. The exporter shall fill out the system manifests as created by the Board stating the amount of exported electronic equipment and their final disposal.

Section 11.04.- Management Requirements.-

Any electronic and cellular telephone equipment and cathode-ray tubes recycling and disposal processes established by any public or private entity shall be subject to all the requirements of any Federal or Commonwealth laws and regulations. Thus, special attention shall be paid to the following provisions without it being construed as a limitation:

a) Neither the Environmental Quality Board nor the Authority shall authorize, approve, provide technical assistance or incentives for the operation of a cathode-ray tubes, electronic or cellular telephone equipment disposal program, which is based on the transportation thereof to a jurisdiction with less stringent laws or regulations, so as to dispose or destroy them without being processed, or limiting the collection, disassembling, and storage of such equipment without an established plan for their future disposal.

b) Any transporter, collection center, recyclers, and refurbishers of electronic equipment and cathode-ray tubes shall certify compliance with the most recent version of the guidelines for the safe environmental management of electronic devices contained in the e-Steward developed by Basel Action Network.

#### Article 12.- Inter-governmental Agreements.-

Section 12.01.- The Board and the Authority are hereby empowered and authorized to join inter-governmental programs, agreements, or organizations of other states or territories of the United States, as representatives of Puerto Rico, for the devise, establishment, or implementation of electronic waste reduction, reuse, recycling, and proper disposal projects to ensure compliance with this Act.

Section 12.02.- The Board and the Authority are hereby empowered and authorized to take any necessary steps before the United States Departments of State and of Commerce to obtain authorization for their participation, to the extent their legal capacity so allows, in international programs, covenants or organizations within the Caribbean to further compliance with the provisions of this Act.

#### Article 13.- Severability.-

Section 13.01.- Should any provision or text of this Act be ruled null or invalid by a competent Court, all other provisions and language thereof shall remain in effect.

Section 13.02.- In the event that a Federal legislation or regulation is implemented to address any of the programmatic or operational areas covered under this Act, the Commonwealth and municipal agencies shall adjust thereto the provisions of this Act and the regulations adopted thereunder that were not rendered invalid by such Federal jurisdiction, so as to remain compliant therewith.

Article 14.- Effectiveness.-

Section 14.01.- This Act shall take effect one hundred and twenty (120) days after its approval.