

Cell Phone Recycling

This Act makes it unlawful to sell, on and after July 1, 2006, a cell phone in the state to a consumer unless the retailer of that cell phone has in place, by July 1, 2006, a system for the acceptance and collection of used cell phones for reuse, recycling, or proper disposal. The law requires the state department of toxic substances control on July 1, 2007, and each July 1 thereafter, to post on its Web site an estimated state recycling rate for cell phones. This Act also requires state agencies which purchase or lease cell phones to certify that the agencies' vendors are complying with the Act.

Submitted as:

California

Chapter 891 of 2004

Status: Enacted into law in 2004.

Suggested State Legislation

1 Section 1. [*Short Title.*] This Act may be cited as “The Cell Phone Recycling Act.”

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3 Section 2. [*Legislative Findings.*] The [Legislature] finds and declares all of the
4 following:

5 (a) The purpose of this Act is to enact a comprehensive and innovative system for the
6 reuse, recycling, and proper and legal disposal of used cell phones.

7 (b) It is the further purpose of this Act to enact a law that establishes a program that is
8 convenient for consumers and the public to return, recycle, and ensure the safe and
9 environmentally sound disposal of used cell phones, and providing a system that does not charge
10 when a cell phone is returned.

11 (c) It is the intent of the [Legislature] that the cost associated with the handling,
12 recycling, and disposal of used cell phones be the responsibility of the producers and consumers
13 of cell phones, and not local government or their service providers, state government, or
14 taxpayers.

15 (d) In order to reduce the likelihood of illegal disposal of hazardous materials, it is the
16 intent of this Act to ensure that all costs associated with the proper management of used cell
17 phones is internalized by the producers and consumers of cell phones at or before the point of
18 purchase, and not at the point of discard.

19 (e) Manufacturers and retailers of cell phones and cell phone service providers, in
20 working to achieve the goals and objectives of this Act, should have the flexibility to partner
21 with each other and with those private and nonprofit business enterprises that currently provide
22 collection and processing services to develop and promote a safe and effective used cell phone
23 recycling system for this state.

24 (f) The producers of cell phones should reduce and, to the extent feasible, ultimately
25 phase out the use of hazardous materials in cell phones.

26 (g) Cell phones, to the greatest extent feasible, should be designed for extended life,
27 repair, and reuse.

28 (h) The purpose of this Act is to provide for the safe, cost-free, and convenient
29 collection, reuse, and recycling of [100 percent] of the used cell phones discarded or offered for
30 recycling in the state.

31 (i) In establishing a cost effective system for the recovery, reuse, recycling and proper
32 disposal of used cell phones, it is the intent of the [Legislature] to encourage manufacturers,
33 retailers and service providers to build on the retailer take-back systems initiated recently by
34 some cell phone service providers.

35 (j) An estimated [5 percent] of obsolete cell phones are currently being recycled through
36 a mechanism, whereby private sector recyclers provide retailers with a postage paid box for
37 mailing returned cell phones to the recycler at no cost to the retailers. In some instances, the
38 scrap value of these used phones is sufficient for the recycler to either pay the retailer or make a
39 financial contribution on behalf of the retailer to a nonprofit charity. It is the intent of the
40 [Legislature] that this model system be substantially expanded as a result of the enactment of this
41 Act.

42
43 Section 3. [*Definitions.*] As used in this Act:

44 (a) “Cell phone” means a wireless telephone device that is designed to send or receive
45 transmissions through a cellular radiotelephone service, as defined in Section 22.99 of Title 47 of
46 the Code of Federal Regulations. A cell phone includes the rechargeable battery that may be
47 connected to that cell phone. A cell phone does not include a wireless telephone device that is
48 integrated into the electrical architecture of a motor vehicle.

49 (b) “Consumer” means a purchaser or owner of a cell phone. “Consumer” also
50 includes a business, corporation, limited partnership, nonprofit organization, or governmental
51 entity, but does not include an entity involved in a wholesale transaction between a distributor
52 and retailer.

53 (c) “Department” means the state [Department of Toxic Substances Control].

54 (d) “Retailer” means a person who sells a cell phone in the state to a consumer,
55 including a manufacturer of a cell phone who sells that cell phone directly to a consumer. A sale
56 includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the
57 Internet, or any other similar electronic means, but does not include a sale that is a wholesale
58 transaction with a distributor or retailer.

59 (e) (1) “Sell” or “sale” means a transfer for consideration of title or of the right to
60 use, by lease or sales contract, including, but not limited to, transactions conducted through sales
61 outlets, catalogs, or the Internet or any other, similar electronic means, but does not include a
62 wholesale transaction with a distributor or a retailer.

63 (2) For purposes of this subdivision and subdivision (d), “distributor” means a
64 person who sells a cell phone to a retailer.

65 (f) “Used cell phone” means a cell phone that has been previously used and is made
66 available, by a consumer, for reuse, recycling, or proper disposal.

67
68 Section 4. [*System for Recycling and Disposing Cell Phones.*]

69 (a) On and after [July 1, 2006], every retailer of cell phones sold in this state shall have in
70 place a system for the acceptance and collection of used cell phones for reuse, recycling, or
71 proper disposal.

72 (b) A system for the acceptance and collection of used cell phones for reuse, recycling, or
73 proper disposal shall, at a minimum, include all of the following elements:

74 (1) The take-back from the consumer of a used cell phone that the retailer sold or
75 previously sold to the consumer, at no cost to that consumer. The retailer may require proof of
76 purchase;

77 (2) The take-back of a used cell phone from a consumer who is purchasing a new
78 cell phone from that retailer, at no cost to that consumer;

79 (3) If the retailer delivers a cell phone directly to a consumer in this state, the
80 system provides the consumer, at the time of delivery, with a mechanism for the return of used
81 cell phones for reuse, recycling, or proper disposal, at no cost to the consumer.

82 (4) Make information available to consumers about cell phone recycling
83 opportunities provided by the retailer and encourage consumers to utilize those opportunities.
84 This information may include, but is not limited to, one or more of the following:

85 (A) Signage that is prominently displayed and easily visible to the
86 consumer.

87 (B) Written materials provided to the consumer at the time of purchase or
88 delivery, or both.

89 (C) Reference to the cell phone recycling opportunity in retailer
90 advertising or other promotional materials, or both.

91 (D) Direct communications with the consumer at the time of purchase.

92 (c) Paragraph (4) of subdivision (b) does not apply to a retailer that only sells prepaid
93 cell phones and does not provide the ability for a consumer to sign a contract for cell phone
94 service.

95 (d) On and after [July 1, 2006] it is unlawful to sell a cell phone to a consumer in this
96 state unless the retailer of that cell phone complies with this Act.

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98 Section 5. [*Statewide Recycling Goals.*] On [July 1, 2007], and each [July 1], thereafter,
99 the [department] shall post on its Web site an estimated state recycling rate for cell phones, the
100 numerator of which shall be the estimated number of cell phones returned for recycling in this
101 state during the previous calendar year, and the denominator of which is the number of cell
102 phones estimated to be sold in this state during the previous calendar year.

103
104 Section 6. [*State Agency Procurement of Cell Phones.*]

105 (a) A state agency that purchases or leases cell phones shall require each prospective
106 bidder, to certify that it, and its agents, subsidiaries, partners, joint venturers, and subcontractors
107 for the procurement, have complied with this chapter and any regulations adopted pursuant to
108 this Act, or to demonstrate that this Act is inapplicable to all lines of business engaged in by the
109 bidder, its agents, subsidiaries, partners, joint venturers, or subcontractors.

110 (b) Failure to provide certification pursuant to this section shall render the prospective
111 bidder and its agents, subsidiaries, partners, joint venturers, and subcontractors ineligible to bid
112 on the procurement of cell phones.

113 (c) The bid solicitation documents shall specify that the prospective bidder is required to
114 cooperate fully in providing reasonable access to its records and documents that evidence
115 compliance with this Act.

116 (d) Any person awarded a contract by a state agency that is found to be in violation of
117 this section is subject to the following sanctions:

118 (1) The contract shall be voided by the state agency to which the equipment,
119 materials, or supplies were provided.

120 (2) The contractor is ineligible to bid on any state contract for a period of [three
121 years].

122 (3) If the [Attorney General] establishes in the name of the people of this state that
123 any money, property, or benefit was obtained by a contractor as a result of violating this section,
124 a court may, in addition to any other remedy, order the disgorgement of the unlawfully obtained
125 money, property, or benefit in the interest of justice.

128	Section 7. [<i>Severability.</i>] [Insert severability clause.]
129	
130	Section 8. [<i>Repealer.</i>] [Insert repealer clause.]
131	
132	Section 9. [<i>Effective Date.</i>] [Insert effective date.]