



COUNCIL

2008 APR 16 P 5:33
THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007
SPEAKER'S OFFICE

HAEDA B. MIHALTSES
DIRECTOR OF INTERGOVERNMENTAL AFFAIRS

April 16, 2008

Honorable Hector L. Diaz
City Clerk and Clerk of the Council
Municipal Building, 2nd Floor
New York, NY 10007

2008 APR 16 P 4:17

CLERK OF THE CITY CLERK

Dear Mr. Diaz:

Transmitted herewith is the bill disapproved by the Mayor. The bill is as follows:

Introductory Number 729

A local law to amend the administrative code of the city New York, in relation to electronic equipment collection standards.

Sincerely,

Haeda Mihaltses

cc: Honorable Christine C. Quinn



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

April 16, 2008

2008 APR 16 P 4: 17

CLERK

Hon. Hector L. Diaz
City Clerk and Clerk of the Council
Municipal Building
New York, NY 10007

Dear Mr. Diaz:

Pursuant to Section 37 of the New York City Charter, I hereby disapprove Introductory Number 729 ("Intro. 729"), which would amend provisions of the "Electronic Equipment Collection, Recycling and Reuse Act" (the "Act"), enacted April 1, 2008, when I approved Introductory Number 728 ("Intro. 728").

In Intro. 729, the City Council now proposes to amend the Act to impose minimum collection standards on manufacturers of covered electronic equipment, which I oppose.

The primary purpose of the "Electronic Equipment Collection, Recycling and Reuse Act", which I support, is to require the manufacturers of covered electronic equipment to collect covered electronic equipment offered for return by any person in New York City and to ensure that the equipment is properly disposed of. The Act requires manufacturers to submit to the Department of Sanitation an electronic waste management plan describing how they would accomplish this purpose. The Act also makes it unlawful for manufacturers and others to dispose of covered electronic equipment by placing it in the City's solid waste stream. In the absence of a federal solution to the problem of the environmentally safe disposal of electronic waste, local initiatives can play an important role. My administration has undertaken many local initiatives that protect the environment and that can serve as models for other local governments and other levels of government.

On Earth Day 2007, I announced *PlaNYC* - our sweeping policy containing 127 separate initiatives to guide New York's continuing growth in a way that both benefits our economy and protects our environment. *PlaNYC* is the most aggressive and comprehensive sustainability policy of any city in our country, with long-term plans to address a growing population, air and water quality, brownfield reclamation, greenhouse gas emissions, and clean and reliable energy.

In addition, my Administration has instituted a number of initiatives that will ensure the long term success and economic vitality of the City's Recycling Program. The passage of the Solid Waste Management Plan in 2006 was an environmental victory that will increase recycling and eliminate the use of large, long-haul diesel trucks that export the City's residential waste. We have also invested in infrastructure to better process metal, glass and plastics recyclables, and renewed our commitment to paper recycling in a 20-year contract to process paper recyclables.

I have already signed local laws that provide for manufacturer take back of post-consumer products, such as rechargeable batteries and plastic bags, which will aid in decreasing the amount of waste going into our landfills.

My primary objection to Intro. 729 is to the provision requiring manufacturers to meet what the bill refers to variously as performance standards or minimum collection standards. These standards are unfair, unnecessary and irrational.

In brief, Intro. 729 requires manufacturers to collect covered electronic equipment in an amount that is equal to a percentage of the weight of covered electronic equipment sold by the manufacturer in the City during the previous three calendar years: by July 1, 2012, twenty-five percent of the average annual sales, by weight; by July 1, 2015, forty-five percent; and by July 1, 2018, sixty-five percent. Manufacturers who do not meet these minimum collection standards are liable for a civil penalty of \$50,000 for each percentage point they fall below the minimum.

The City Council did not provide any justification for the percentages imposed. There was no factual basis, no basis in the experience of other comparable jurisdictions for the percentages imposed. In fact, the limited data the City has from manufacturers indicates computers are recycled every seven to ten years and televisions are replaced at an even slower rate of approximately every twelve to fifteen years. Based on this limited information, it is impossible to ascertain whether the performance standards are achievable.

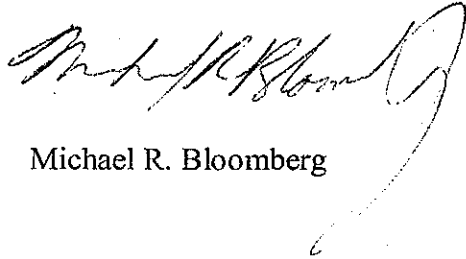
It would be more prudent to first implement, enforce and evaluate the "Electronic Equipment Collection, Recycling and Reuse Act" to determine the appropriateness of performance standards. However, I believe that time will show that performance standards are not necessary to ensure that the purposes of the Act are achieved. The Act already subjects manufacturers to very substantial penalties for non-compliance. As noted, the Act requires that manufacturers collect and properly dispose of covered electronic equipment and requires that manufacturers submit plans describing the means by which they will do so. The Act provides substantial civil penalties for violation of these provisions. Manufacturers would be liable for: a civil penalty of \$1,000 per day for each day that an electronic waste management plan is not submitted; a civil penalty of \$2,000 for each piece of covered electronic equipment not accepted; a civil penalty of \$1,000 for each piece of covered electronic equipment disposed of in the City's solid waste stream. These civil penalties provide a very significant incentive for compliance with the Act and are wholly adequate to achieve its important and laudable purposes.

Finally, there is an important distinction between the conduct punished by the penalties contained in Intro. 728 and the conduct punished by the penalties imposed for violation of the minimum collection standards set forth in Intro. 729. A manufacturer controls whether it submits

an electronic waste management plan, accepts covered equipment or disposes of covered equipment in the City's waste stream; it does not control whether a person in New York City will offer to return covered electronic equipment to the manufacturer, and does not control whether persons will offer to return covered electronic equipment in sufficient quantity to enable the manufacturer to meet its minimum collection standard. Essentially, manufacturers can be penalized for the conduct of others. And the penalty is severe and excessive: \$50,000 for each percentage point that the manufacturer falls below the minimum collection standards.

Accordingly, I hereby disapprove Introductory Number 729.

Sincerely,



Michael R. Bloomberg

Cc: Hon. Christine C. Quinn

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Preconsidered Int. No. 729

2009 APR 16 P 4:17

By Council Members de Blasio, McMahon, ~~and~~ the Speaker (Council Member Quinn) and Council Members Comrie, Dickens, Fidler, Gentile, Katz, Koppell, Rechia Jr, Sanders, Jr, Gerson, Jackson, James, Stewart, A Local Law Vallone Jr, Weprin, Martinez, Yassky, Liu, Nelson, Foster, Monserrate ~~and~~ Rivera, Gazdovick, Mealy, & Sears

To amend the administrative code of the city of New York, in relation to electronic equipment collection standards.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The purpose of this chapter is to require that manufacturers of covered electronic waste comply with specific electronic waste collection standards. The Council finds that the setting of performance standards is necessary to insure that electronic equipment is collected in appropriate amounts. The three-year period before penalties are imposed for failure to meet the prescribed performance standards gives the industry and the city ample time and data to evaluate, and if necessary, adjust the prescribed performance standards.

§2. Subdivision d(4) of section 16-423 of chapter four-a of the administrative code of the city of New York is amended to read as follows:

4. a description of how the manufacturer will plan to [collect covered electronic equipment to the maximum extent feasible] attain the performance standards established in paragraph a of section 16-424 of this chapter;

§3. Subdivision h.2 of section 16-423 of chapter four-a of the administrative code of the city of New York is amended to read as follows:

h.2 At any time, the department may require resubmission of a proposed modification where it determines that the manufacturer is not in compliance with the collection standards as set forth in section 16-424 of this chapter [collecting covered

manufacturer's covered electronic equipment in the city, reported by weight, during the previous three calendar years; by July 1, 2012, the minimum collection standard is twenty-five percent; by July 1, 2015, the minimum collection standard is forty-five percent; by July 1, 2018, the minimum collection standard is sixty-five percent.

b. For purposes of calculating achievement of the minimum collection standard specified in paragraph a of this subdivision, a manufacturer may count the collection of a single item of covered electronic equipment as twice its weight when that item is donated free of charge for reuse to the New York city department of education, or to any not-for-profit corporation, as defined in subparagraphs five or seven of subdivision a of section one hundred two of the New York not-for-profit corporation law, a principal mission of which is to assist low-income children or families living in city. To qualify for the donation reuse credit under this subdivision, the covered electronic equipment must be: (a) no older than three years old, (b) in full working condition, and (c) accepted as a donation by the recipient in writing.

c. The commissioner may grant an annual waiver, in whole or in part, from the minimum collection standards set forth in subdivision a of this section where a manufacturer who has an approved electronic waste management plan has demonstrated to the commissioner's satisfaction that such minimum collection standards could not be met despite the best efforts of the manufacturer because the manufacturer has substantially increased the amount of covered electronic equipment sold within the city over the three-year period during which compliance with subdivision a of this section is to be measured and it was not practicable to meet the applicable minimum collection standard.



DISAPPROVED

ON THE 16th DAY OF April 2008

[Signature] MAYOR

and further categorized, to the extent possible, by the quantity of such covered electronic equipment collected from individuals and government entities; 4. the weight of orphan waste collected, categorized by the type of covered electronic equipment collected, pursuant to such manufacturer's electronic waste management plan; 5. information on the manufacturer's compliance with the performance standards established in section 16-424 of this chapter [goal of collecting covered electronic equipment to the maximum extent feasible]; 6. information on the end markets and electronic recyclers utilized by the manufacturer, including details on the methods of collection, handling and recycling or reuse of covered electronic equipment used by electronic recyclers, details on any disassembly or physical recovery operation to be used, the locations of any such operations, and details on the manufacturer's compliance with applicable laws and regulations relating to the disposition, recycling and reuse of covered electronic equipment and orphan waste; 7. examples of how the manufacturer has informed residents and businesses of the city about the manufacturer's plan for the collection, handling and recycling or reuse of covered electronic equipment and orphan waste; 8. the number of visits to the internet website and calls to the toll-free telephone numbers established by the manufacturer's electronic waste management plan; and 9. any other information required by department rules.

§8. This local law shall take effect immediately.

I hereby certify that the above bill was passed by the Council of the City of New York on March 26, 2008 receiving the following votes:

Affirmative..... 47
Negative..... 4
Not Voting..... 0

[Signature]
Hector B. Diaz, City Clerk of the Council.