

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2491

To amend the Solid Waste Disposal Act to authorize States to restrict receipt of foreign municipal solid waste and implement the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2005

Mr. GILLMOR (for himself, Mr. ROGERS of Michigan, Mr. DINGELL, Mr. STUPAK, and Mr. UPTON) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Solid Waste Disposal Act to authorize States to restrict receipt of foreign municipal solid waste and implement the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “International Solid  
5 Waste Importation and Management Act of 2005”.

1 **SEC. 2. INTERNATIONAL TRANSPORTATION AND DISPOSAL**  
2 **OF MUNICIPAL SOLID WASTE.**

3 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-  
4 posal Act (42 U.S.C. 6941 et seq.) is amended by adding  
5 after section 4010 the following new section:

6 **“SEC. 4011. INTERNATIONAL TRANSPORTATION AND DIS-**  
7 **POSAL OF MUNICIPAL SOLID WASTE.**

8 “(a) STATE AUTHORITY TO ADDRESS IMPORTATION  
9 AND MANAGEMENT OF MUNICIPAL SOLID WASTE.—

10 “(1) IN GENERAL.—

11 “(A) Until the date on which the regula-  
12 tions, issued by the Administrator, to imple-  
13 ment and enforce the Agreement (including no-  
14 tice and consent provisions of the Agreement)  
15 become effective, a State may enact a law or  
16 laws or issue regulations or orders imposing  
17 limitations on the receipt and disposal of for-  
18 eign municipal solid waste within the State.

19 “(B) A State shall undergo all required  
20 public notification, hearing, comment, and con-  
21 sent processes when exercising the grant of au-  
22 thority provided in paragraph (A) as required  
23 by State law.

24 “(2) EFFECT ON INTERSTATE AND FOREIGN  
25 COMMERCE.—No State action taken as authorized  
26 by this section shall be considered to impose an

1 undue burden on interstate and foreign commerce or  
2 to otherwise impair, restrain, or discriminate against  
3 interstate and foreign commerce.

4 “(3) TRADE AND TREATY OBLIGATIONS.—State  
5 authorities granted under this section shall be imple-  
6 mented consistent with international trade obliga-  
7 tions pursuant to 19 U.S.C. 3312.

8 “(b) AUTHORITY OF ADMINISTRATION.—

9 “(1) IN GENERAL.—Beginning immediately  
10 after the date of enactment of this section, the Ad-  
11 ministration shall—

12 “(A) perform the functions of the Des-  
13 ignated Authority of the United States de-  
14 scribed in the Agreement with respect to the  
15 importation and exportation of municipal solid  
16 waste under the Agreement; and

17 “(B) not later than 24 months after the  
18 date of enactment, implement and enforce the  
19 notice and consent provisions of the Agreement,  
20 as well as the provisions thereof.

21 “(2) CONSENT TO IMPORTATION.—In consid-  
22 ering whether to consent to the importation under  
23 article 3(c) of the Agreement, the Administrator  
24 shall—

1           “(A) give substantial weight to the views of  
2           the State or States into which the municipal  
3           solid waste is to be imported, and consider the  
4           views of the local government with jurisdiction  
5           over the location where the waste is to be dis-  
6           posed;

7           “(B) consider the impact of the importa-  
8           tion on—

9                   “(i) continued public support for and  
10                   adherence to State and local recycling pro-  
11                   grams;

12                   “(ii) landfill capacity as provided in  
13                   comprehensive waste management plans;

14                   “(iii) air emissions from increased ve-  
15                   hicular traffic; and

16                   “(iv) road deterioration from in-  
17                   creased vehicular traffic; and

18           “(C) consider the impact of the importa-  
19           tion on homeland security, public health, and  
20           the environment.

21           “(3) ACTIONS IN VIOLATION OF THE AGREE-  
22           MENT.—No person shall import, transport, or export  
23           municipal solid waste for final disposal or for incin-  
24           eration in violation of the Agreement Between the  
25           Government of the United States of America and

1 the Government of Canada Concerning the  
2 Transboundary Movement of Hazardous Waste, or  
3 any laws, orders, or regulations issued to implement  
4 and enforce such agreement.

5 “(c) COMPLIANCE ORDERS.—

6 “(1) Whenever on the basis of any information  
7 the Administrator determines that any person has  
8 violated or is in violation of this section, the Admin-  
9 istrator may issue an order assessing a civil penalty  
10 for any past or current violation, requiring compli-  
11 ance immediately or within a specified time period,  
12 or both, or the Administrator may commence a civil  
13 action in the United States district court in the dis-  
14 trict in which the violation occurred for appropriate  
15 relief, including a temporary or permanent injunc-  
16 tion.

17 “(2) Any order issued pursuant to this sub-  
18 section shall state with reasonable specificity the na-  
19 ture of the violation. Any penalty assessed in the  
20 order shall not exceed \$25,000 per day of non-  
21 compliance for each violation. In assessing such a  
22 penalty, the Administrator shall take into account  
23 the seriousness of the violation and any good faith  
24 efforts to comply with applicable requirements.

1       “(d) PUBLIC HEARING.—Any order issued under this  
2 section shall become final unless, not later than 30 days  
3 after the order is served, the person or persons named  
4 therein request a public hearing. Upon such request the  
5 Administrator shall promptly conduct a public hearing. In  
6 connection with any proceeding under this section the Ad-  
7 ministrator may issue subpoenas for the attendance and  
8 testimony of witnesses and the production of relevant pa-  
9 pers, books, and documents, and may promulgate rules for  
10 discovery procedures.

11       “(e) VIOLATION OF COMPLIANCE ORDERS.—If a vio-  
12 lator fails to take corrective action within the time speci-  
13 fied in a compliance order, the Administrator may assess  
14 a civil penalty of not more than \$25,000 for each day of  
15 continued noncompliance with the order.”.

16       “(f) DEFINITIONS.—For purposes of this section:

17               “(1) FOREIGN MUNICIPAL SOLID WASTE.—The  
18 term ‘foreign municipal solid waste’ means munic-  
19 ipal solid waste generated outside of the United  
20 States.

21               “(2) MUNICIPAL SOLID WASTE.—

22                       “(A) WASTE INCLUDED.—Except as pro-  
23 vided in subparagraph (B), the term ‘municipal  
24 solid waste’ means—

1           “(i) all waste materials discarded for  
2 disposal by households, including single  
3 and multifamily residences, and hotels and  
4 motels; and

5           “(ii) all waste materials discarded for  
6 disposal that were generated by commer-  
7 cial, institutional, municipal, and industrial  
8 sources, to the extent such materials—

9                   “(I) are essentially the same as  
10 materials described in clause (i); and

11                   “(II) were collected and disposed  
12 of with other municipal solid waste  
13 described in clause (i) or subclause (I)  
14 of this clause as part of normal mu-  
15 nicipal solid waste collection services,  
16 except that this subclause does not  
17 apply to hazardous materials other  
18 than hazardous materials that, pursu-  
19 ant to regulations issued under sec-  
20 tion 3001(d), are not subject to regu-  
21 lation under subtitle C.

22           Examples of municipal solid waste include food  
23 and yard waste, paper, clothing, appliances,  
24 consumer product packaging, disposable dia-  
25 pers, office supplies, cosmetics, glass and metal

1 food containers, and household hazardous  
2 waste. Such term shall include debris resulting  
3 from construction, remodeling, repair, or demo-  
4 lition of structures.

5 “(B) WASTE NOT INCLUDED.—The term  
6 ‘municipal solid waste’ does not include any of  
7 the following:

8 “(i) Any solid waste identified or list-  
9 ed as a hazardous waste under section  
10 3001, except for household hazardous  
11 waste.

12 “(ii) Any solid waste, including con-  
13 taminated soil and debris, resulting from—

14 “(I) a response action taken  
15 under section 104 or 106 of the Com-  
16 prehensive Environmental Response,  
17 Compensation, and Liability Act (42  
18 U.S.C. 9604 or 9606);

19 “(II) a reponse action taken  
20 under a State law with authorities  
21 comparable to the authorities of such  
22 section 104 or 106; or

23 “(III) a corrective action taken  
24 under this Act.

1           “(iii) Recyclable materials that have  
2           been separated, at the source of the waste,  
3           from waste otherwise destined for disposal  
4           or that have been managed separately from  
5           waste destined for disposal.

6           “(iv) Scrap rubber to be used as a  
7           fuel source.

8           “(v) Materials and products returned  
9           from a dispenser or distributor to the man-  
10          ufacturer or an agent of the manufacturer  
11          for credit, evaluation, and possible reuse.

12          “(vi) Any solid waste that is—

13               “(I) generated by an industrial  
14               facility; and

15               “(II) transported for the purpose  
16               of treatment, storage, or disposal to a  
17               facility or unit thereof that is owned  
18               or operated by the generator of the  
19               waste, located on property owned by  
20               the generator or a company with  
21               which the generator is affiliated, or  
22               the capacity of which is contractually  
23               dedicated exclusively to a specific gen-  
24               erator, so long as the disposal area  
25               complies with local and State land use

1 and zoning regulations applicable to  
2 the disposal site.

3 “(vii) Any medical waste that is seg-  
4 regated from or not mixed with solid  
5 waste.

6 “(viii) Sewage sludge and residuals  
7 from any sewage treatment plant.

8 “(ix) Combustion ash generated by re-  
9 source recovery facilities or municipal in-  
10 cinerators, or waste from manufacturing or  
11 processing (including pollution control) op-  
12 erations not essentially the same as waste  
13 normally generated by households.”.

14 “(3) AGREEMENT.—The term ‘Agreement’  
15 means—

16 “(A) the Agreement Concerning the  
17 Transboundary Movement of Hazardous Waste  
18 between the United States and Canada, signed  
19 at Ottawa on October 28, 1986 (TIAS 11099)  
20 and amended on November 25, 1992; and

21 “(B) any regulations promulgated to im-  
22 plement and enforce that Agreement.

23 (b) TABLE OF CONTENTS AMENDMENT.—The table  
24 of contents of the Solid Waste Disposal Act (42 U.S.C.

- 1 prec. 6901) is amended by adding after the item relating
- 2 to section 4010 the following new item:

“Sec. 4011. International transportation and disposal of municipal solid waste.”.

