

103^D CONGRESS
1ST SESSION

H. R. 3706

To amend the Solid Waste Disposal Act to prohibit the international export and import of certain solid waste.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 22, 1993

Mr. TOWNS (for himself, Mr. BROWN of California, Miss COLLINS of Michigan, Mr. CONYERS, Mr. DELLUMS, Mr. EVANS, Mr. PETERSON of Minnesota, Mr. RICHARDSON, Mr. SANDERS, Mrs. SCHROEDER, Mr. WHEAT, and Mr. WYNN) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Solid Waste Disposal Act to prohibit the international export and import of certain solid waste.

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 “Waste Export and Im-
5 port Prohibition Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress makes the following
8 findings:

1 (1) Proposals to export solid waste from the
2 United States to foreign countries are increasing. In
3 numerous instances exported waste has contami-
4 nated the environment, adversely affected public
5 health, and contributed to foreign policy liabilities
6 for the United States.

7 (2) Exports of solid waste are being undertaken
8 to avoid the community opposition and higher treat-
9 ment and disposal expenses that are associated with
10 waste disposal, treatment, and recycling in the
11 United States.

12 (3) Increasingly, hazardous waste exports are
13 justified by the agreeable term “recycling”, even
14 though the result of the export is a transfer of pollu-
15 tion to areas of the world with little capability to
16 manage that pollution.

17 (4) Continued exports of solid waste serve as a
18 disincentive to implementation of existing domestic
19 policy, which recognizes reuse and waste reduction
20 as the best methods of solid waste management.

21 (5) Imports of waste from foreign countries
22 strain diminishing domestic waste disposal capacity,
23 threaten public health, and contaminate the environ-
24 ment.

1 “(b) PROHIBITION ON EXPORTS TO AND IMPORTS
2 FROM OECD COUNTRIES.—Effective January 1, 1999, no
3 person may export any solid waste from the United States
4 to an OECD country, or import any solid waste into the
5 United States from an OECD country, except as provided
6 in subsection (c).

7 “(c) SPECIFIC EXCEPTIONS.—(1) The prohibitions
8 contained in subsections (a) and (b) shall not apply to
9 baled waste paper, scrap textiles, or waste glass, if all of
10 the following conditions are met with respect to such
11 waste:

12 “(A) The waste is exported or imported for the
13 purposes of recycling.

14 “(B) The waste is separated from the waste
15 stream.

16 “(C) The waste does not contain any sub-
17 stances whose storage, treatment, or disposal within
18 the United States is regulated under subtitle C.

19 “(2) The prohibition contained in subsection (b) shall
20 not apply to any scrap metal that—

21 “(A) meets all of the conditions listed in sub-
22 paragraphs (A), (B), and (C) of paragraph (1);

23 “(B) is not, and does not contain, a sludge; and

24 “(C) meets either of the following conditions:

1 “(i) The waste is not within, and does not
2 contain a waste within, a category of waste list-
3 ed in Annex I or Annex II of the Basel Conven-
4 tion on the Control of Transboundary Move-
5 ments of Hazardous Wastes and their Disposal.

6 “(ii) The waste does not have a char-
7 acteristic listed in Annex III of such convention.

8 “(d) REQUIREMENT TO RETRIEVE OR CLEAN UP
9 WASTE.—(1) In any case in which waste is exported in
10 violation of this section, the Administrator shall ensure
11 that the waste is retrieved from the recipient foreign coun-
12 try, if the foreign country agrees to such retrieval, by ei-
13 ther requiring the violator to retrieve such waste pursuant
14 to a compliance order issued under subsection (g), or by
15 retrieving the waste directly.

16 “(2) If the Administrator retrieves the waste directly,
17 the Administrator shall ensure that the waste is re-
18 trieved—

19 “(A) in the case of a violation with respect to
20 which a compliance order has been issued, not later
21 than 90 days after the expiration of the time period
22 specified in the compliance order for retrieval of the
23 waste by the violator, if the violator has failed to re-
24 trieve the waste; and

1 “(B) in the case of a violation with respect to
2 which a compliance order has not been issued, not
3 later than 90 days after discovery of the violation.

4 “(3) If the foreign country does not agree to retrieval
5 of the waste, the Administrator shall dispose of or clean
6 up such waste in the foreign country, to the extent the
7 foreign country agrees to such action.

8 “(e) DEFINITIONS.—For purposes of this section, the
9 following definitions apply:

10 “(1) The term ‘solid waste’ has the meaning
11 given that term by section 1004(27), except that
12 such term also includes the following:

13 “(A) Low-level radioactive waste, as de-
14 fined in part 61 of title 10 of the Code of Fed-
15 eral Regulations.

16 “(B) Mixed waste. For purposes of this
17 subsection, the term ‘mixed waste’ means haz-
18 ardous waste or nonhazardous waste mixed with
19 low-level radioactive waste.

20 “(C) All wastes covered by the Basel Con-
21 vention on the Control of Transboundary Move-
22 ments of Hazardous Wastes and their Disposal,
23 as set forth in Annexes I, II, and III of that
24 convention.

1 “(2) The term ‘OECD country’ means any for-
2 eign country that is a member of the Organization
3 for Economic Cooperation and Development.

4 “(3) The term ‘non-OECD country’ means any
5 foreign country that is not an OECD country.

6 “(f) REGULATIONS.—The Administrator shall pro-
7 mulgate such regulations as may be necessary to imple-
8 ment this section. The regulations shall exclude from the
9 prohibitions contained in subsections (a) and (b) small
10 quantities of personal household waste carried by individ-
11 uals traveling abroad.

12 “(g) ENFORCEMENT.—

13 “(1) COMPLIANCE ORDERS.—(A) Whenever on
14 the basis of any information the Administrator de-
15 termines that any person has violated or is in viola-
16 tion of any requirement of this section, the Adminis-
17 trator may—

18 “(i) issue an order assessing a civil penalty
19 for any past or current violation, requiring com-
20 pliance immediately or within a specified time
21 period, or both; or

22 “(ii) commence a civil action in the United
23 States district court in the district in which the
24 violation occurred for appropriate relief, includ-
25 ing a temporary or permanent injunction.

1 “(B) A compliance order issued under subpara-
2 graph (A)(i) shall include, in the case of a person
3 exporting waste in violation of this section, a re-
4 quirement to retrieve the waste from the recipient
5 foreign country within 90 days after issuance of the
6 order, or within such shorter period of time as the
7 Administrator considers appropriate, if the foreign
8 country agrees to such retrieval.

9 “(C) A compliance order issued under subpara-
10 graph (A)(i) may include—

11 “(i) in the case of a person exporting waste
12 in violation of this section, a requirement to dis-
13 pose of or clean up the waste in the foreign
14 country, to the extent agreed to by the foreign
15 country; or

16 “(ii) in the case of a person importing
17 waste in violation of this section, a requirement
18 to return the waste to the foreign country from
19 which the waste originated, if the foreign coun-
20 try agrees to accept such waste, or to dispose
21 of or clean up the waste in compliance with
22 applicable law.

23 “(2) PUBLIC HEARING.—Any order issued
24 under this subsection shall become final unless, not
25 later than 30 days after the order is served, the per-

1 son or persons named in the order request a public
2 hearing. Upon such request, the Administrator shall
3 promptly conduct a public hearing. In connection
4 with any proceeding under this section the Adminis-
5 trator may issue subpoenas for the attendance and
6 testimony of witnesses and the production of rel-
7 evant papers, books, and documents, and may pro-
8 mulgate rules for discovery procedure.

9 “(3) CIVIL PENALTIES.—(A) Any person who
10 violates any requirement of this section shall be lia-
11 ble to the United States for a civil penalty in an
12 amount not to exceed \$25,000 for each such viola-
13 tion. Each day of such violation shall, for purposes
14 of this subsection, constitute a separate violation.

15 “(B) If a violator fails to take the action re-
16 quired by a compliance order issued under para-
17 graph (1) within the time specified in the order, the
18 Administrator may assess a civil penalty of not more
19 than \$25,000 for each day of continued noncompli-
20 ance with the order.

21 “(4) CRIMINAL PENALTIES.—Any person who
22 knowingly violates the prohibition contained in this
23 section or any requirement of regulations promul-
24 gated under subsection (e) shall be subject to im-
25 prisonment for not to exceed 10 years, fined in ac-

1 cordance with title 18, United States Code, or both,
2 for each such violation.

3 “(5) CITIZEN SUITS.—For purposes of this sec-
4 tion, a government of a foreign country shall be con-
5 sidered a person under section 7002 (relating to citi-
6 zen suits).”.

7 (b) REPEAL OF EXISTING AUTHORITY.—Section
8 3017 of the Solid Waste Disposal Act is repealed. The
9 table of contents for subtitle C of such Act is amended
10 by striking out the item relating to such section.

11 (c) TABLE OF CONTENTS.—The table of contents for
12 subtitle A of the Solid Waste Disposal Act is amended by
13 adding at the end the following new item:

“Sec. 1009. Export and import of solid waste.”.

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