

Union Calendar No. 45

110TH CONGRESS
1ST SESSION

H. R. 518

[Report No. 110-81]

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.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 2007

Mr. DINGELL (for himself, Mr. ROGERS of Michigan, Mr. EHLERS, Mr. McCOTTER, Mr. UPTON, Mr. LEVIN, Mr. CONYERS, Mr. KILDEE, Mrs. MILLER of Michigan, Ms. KILPATRICK of Michigan, Mr. CAMP of Michigan, Mr. KNOLLENBERG, Mr. HOEKSTRA, Mr. WALBERG, Mr. STUPAK, Mr. WYNN, Ms. BALDWIN, and Mr. GILLMOR) introduced the following bill; which was referred to the Committee on Energy and Commerce

MARCH 29, 2007

Additional sponsors: Mrs. JO ANN DAVIS of Virginia and Mr. GILCHREST

MARCH 29, 2007

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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 2007”.

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

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

11 **“SEC. 4011. INTERNATIONAL TRANSPORTATION AND DIS-**
12 **POSAL OF MUNICIPAL SOLID WASTE.**

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

15 “(1) IN GENERAL.—Until the date on which all
16 final regulations issued by the Administrator to im-
17 plement and enforce the Agreement (including notice
18 and consent provisions of the Agreement) become ef-
19 fective, a State may enact a law or laws or issue reg-
20 ulations or orders imposing limitations on the receipt
21 and disposal of foreign municipal solid waste within
22 the State. Laws, regulations, and orders enacted or
23 issued before that date may continue in effect ac-
24 cording to their terms after that date.

1 “(2) EFFECT ON INTERSTATE AND FOREIGN
2 COMMERCE.—No State action taken as authorized
3 by this section shall be considered to impose an
4 undue burden on interstate and foreign commerce or
5 to otherwise impair, restrain, or discriminate against
6 interstate and foreign commerce.

7 “(3) TRADE AND TREATY OBLIGATIONS.—
8 Nothing in this section affects, replaces, or amends
9 prior law relating to the need for consistency with
10 international trade obligations.

11 “(b) AUTHORITY OF ADMINISTRATOR.—

12 “(1) IN GENERAL.—Beginning immediately
13 after the date of enactment of this section, the Ad-
14 ministrator shall—

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

20 “(B) implement and enforce the notice and
21 consent and other provisions of the Agreement.

22 “(2) REGULATIONS.—Not later than 24 months
23 after the date of enactment of this section, the Ad-
24 ministrator shall issue final regulations with respect

1 to the Administrator’s responsibilities under para-
2 graph (1).

3 “(3) CONSENT TO IMPORTATION.—In consid-
4 ering whether to consent to the importation under
5 article 3(c) of the Agreement, the Administrator
6 shall—

7 “(A) give substantial weight to the views of
8 the State or States into which the municipal
9 solid waste is to be imported, and consider the
10 views of the local government with jurisdiction
11 over the location where the waste is to be dis-
12 posed;

13 “(B) consider the impact of the importa-
14 tion on—

15 “(i) continued public support for and
16 adherence to State and local recycling pro-
17 grams;

18 “(ii) landfill capacity as provided in
19 comprehensive waste management plans;

20 “(iii) air emissions from increased ve-
21 hicular traffic; and

22 “(iv) road deterioration from in-
23 creased vehicular traffic; and

1 “(C) consider the impact of the importa-
2 tion on homeland security, public health, and
3 the environment.

4 “(4) ACTIONS IN VIOLATION OF THE AGREE-
5 MENT.—No person shall import, transport, or export
6 municipal solid waste for final disposal or for incin-
7 eration in violation of the Agreement.

8 “(c) COMPLIANCE ORDERS.—(1) Whenever on the
9 basis of any information the Administrator determines
10 that any person has violated or is in violation of this sec-
11 tion, the Administrator may issue an order assessing a
12 civil penalty for any past or current violation, requiring
13 compliance immediately or within a specified time period,
14 or both, or the Administrator may commence a civil action
15 in the United States district court in the district in which
16 the violation occurred for appropriate relief, including a
17 temporary or permanent injunction.

18 “(2) Any order issued pursuant to this subsection
19 shall state with reasonable specificity the nature of the vio-
20 lation. Any penalty assessed in the order shall not exceed
21 \$25,000 per day of noncompliance for each violation. In
22 assessing such a penalty, the Administrator shall take into
23 account 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) AGREEMENT.—The term ‘Agreement’
18 means—

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

1 “(B) any regulations promulgated and or-
2 ders issued to implement and enforce that
3 Agreement.

4 “(2) FOREIGN MUNICIPAL SOLID WASTE.—The
5 term ‘foreign municipal solid waste’ means munic-
6 ipal solid waste generated outside of the United
7 States.

8 “(3) MUNICIPAL SOLID WASTE.—

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

12 “(i) all waste materials discarded for
13 disposal by households, including single
14 and multifamily residences, and hotels and
15 motels; and

16 “(ii) all waste materials discarded for
17 disposal that were generated by commer-
18 cial, institutional, municipal, and industrial
19 sources, to the extent such materials—

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

22 “(II) were collected and disposed
23 of with other municipal solid waste
24 described in clause (i) or subclause (I)
25 of this clause as part of normal mu-

1 municipal solid waste collection services,
2 except that this subclause does not
3 apply to hazardous materials other
4 than hazardous materials that, pursu-
5 ant to regulations issued under sec-
6 tion 3001(d), are not subject to regu-
7 lation under subtitle C.

8 Examples of municipal solid waste include
9 food and yard waste, paper, clothing, appli-
10 ances, consumer product packaging, dis-
11 posable diapers, office supplies, cosmetics,
12 glass and metal food containers, and
13 household hazardous waste. Such term
14 shall include debris resulting from con-
15 struction, remodeling, repair, or demolition
16 of structures.

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

20 “(i) Any solid waste identified or list-
21 ed as a hazardous waste under section
22 3001, except for household hazardous
23 waste.

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

1 “(I) a response action taken
2 under section 104 or 106 of the Com-
3 prehensive Environmental Response,
4 Compensation, and Liability Act (42
5 U.S.C. 9604 or 9606);

6 “(II) a response action taken
7 under a State law with authorities
8 comparable to the authorities of such
9 section 104 or 106; or

10 “(III) a corrective action taken
11 under this Act.

12 “(iii) Recyclable materials that have
13 been separated, at the source of the waste,
14 from waste otherwise destined for disposal
15 or that have been managed separately from
16 waste destined for disposal.

17 “(iv) Scrap rubber to be used as a
18 fuel source.

19 “(v) Materials and products returned
20 from a dispenser or distributor to the man-
21 ufacturer or an agent of the manufacturer
22 for credit, evaluation, and possible reuse.

23 “(vi) Any solid waste that is—

24 “(I) generated by an industrial
25 facility; and

1 “(II) transported for the purpose
2 of treatment, storage, or disposal to a
3 facility or unit thereof that is owned
4 or operated by the generator of the
5 waste, located on property owned by
6 the generator or a company with
7 which the generator is affiliated, or
8 the capacity of which is contractually
9 dedicated exclusively to a specific gen-
10 erator, so long as the disposal area
11 complies with local and State land use
12 and zoning regulations applicable to
13 the disposal site.

14 “(vii) Any medical waste that is seg-
15 regated from or not mixed with solid
16 waste.

17 “(viii) Sewage sludge and residuals
18 from any sewage treatment plant.

19 “(ix) Combustion ash generated by re-
20 source recovery facilities or municipal in-
21 cinerators, or waste from manufacturing or
22 processing (including pollution control) op-
23 erations not essentially the same as waste
24 normally generated by households.

1 “(x) Solid waste generated incident to
2 the provision of service in interstate, intra-
3 state, foreign, or overseas air transpor-
4 tation.”.

5 (b) TABLE OF CONTENTS AMENDMENT.—The table
6 of contents of the Solid Waste Disposal Act (42 U.S.C.
7 prec. 6901) is amended by adding after the item relating
8 to section 4010 the following new item:

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

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