

111TH CONGRESS
2D SESSION

H. R. 6252

To prohibit the export from the United States of certain electronic waste,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2010

Mr. GENE GREEN of Texas (for himself, Mr. THOMPSON of California, and
Mr. CARTER) introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To prohibit the export from the United States of certain
electronic waste, 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 “Responsible Elec-
5 tronics Recycling Act”.

6 **SEC. 2. ELECTRONIC WASTE EXPORT RESTRICTIONS.**

7 (a) AMENDMENT.—Subtitle C of the Solid Waste
8 Disposal Act (42 U.S.C. 6921 et seq.) is amended by add-
9 ing at the end the following new section:

1 **“SEC. 3024. ELECTRONIC WASTE EXPORT RESTRICTIONS.**

2 “(a) IN GENERAL.—Beginning 12 months after the
3 date of enactment of this section, except as provided in
4 subsection (e) or (f), no person shall export any restricted
5 electronic waste to a country described in subsection (e).

6 “(b) COVERED WASTE.—

7 “(1) DEFINITIONS.—For purposes of this sec-
8 tion:

9 “(A) The term ‘covered electronic equip-
10 ment’ means used computers, central processing
11 units, mobile computers (including notebooks,
12 netbooks, tablets, and e-book readers), com-
13 puter accessories including input devices,
14 webcams, speakers, data storage devices, serv-
15 ers, and monitors, televisions, digital picture
16 frames, and other video display devices, digital
17 imaging devices (including printers, copiers,
18 facsimile machines, image scanners, and multi-
19 function machines), television peripheral devices
20 including video cassette recorders, DVD play-
21 ers, video game systems, game controllers, sig-
22 nal converter boxes, and cable and satellite re-
23 ceivers, digital cameras and projectors, digital
24 audio players, telephones and electronic commu-
25 nication equipment, networking devices includ-
26 ing routers, network cards, modems, and hubs,

1 audio equipment, other wireless communication
2 devices including cell phones, mobile television
3 and entertainment devices, personal digital as-
4 sistants, and portable GPS navigation systems,
5 and other used electronic products the Adminis-
6 trator determines to be similar in accordance
7 with paragraph (2).

8 “(B)(i) The term ‘restricted electronic
9 waste’ means—

10 “(I) items of covered electronic
11 equipment, whole or in fragments,
12 that include, contain, are derived
13 from, or consist of—

14 “(aa) cathode ray tubes or
15 cathode ray tube glass in any
16 form, or cathode ray tube phos-
17 phor residues or dusts in any
18 form;

19 “(bb) a lamp or other device
20 containing mercury phosphor;

21 “(cc) batteries containing
22 lead, cadmium, mercury, or flam-
23 mable organic solvents;

1 “(dd) switches or any other
2 devices containing mercury in
3 elemental or compound form;

4 “(ee) capacitors, trans-
5 formers, light ballasts, or any
6 other devices containing or sus-
7 pected of containing poly-
8 chlorinated biphenyls (PCBs); or

9 “(ff) parts, components, or
10 assemblies, or materials derived
11 therefrom, containing hexavalent
12 chromium or beryllium (in ele-
13 mental or compound form);

14 “(II) except as provided in para-
15 graph (3), items of covered electronic
16 equipment, whole or in fragments,
17 that include, contain, are derived
18 from, or consist of—

19 “(aa) circuit boards con-
20 taining lead, cadmium, or beryl-
21 lium in elemental or compound
22 form;

23 “(bb) printer drums or any
24 other devices containing selenium
25 in elemental or compound form;

1 “(cc) liquid crystal displays,
2 flatscreen glass, light emitting di-
3 odes (LEDs), or any other device
4 containing arsenic in elemental or
5 compound form; or

6 “(dd) parts, components, or
7 assemblies, or materials derived
8 therefrom, containing antimony,
9 barium, cadmium, chromium
10 (other than hexavalent chro-
11 mium), lead, thallium, beryllium,
12 arsenic, or selenium; or

13 “(III) any other covered elec-
14 tronic equipment parts, components,
15 or assemblies, or materials derived
16 therefrom, containing any other toxic
17 material identified by the Adminis-
18 trator under paragraph (2).

19 “(ii) The term ‘restricted electronic waste’
20 shall not apply to covered electronic equipment
21 or parts which are tested prior to export, and
22 are found to be—

23 “(I) functional for the purpose for
24 which the equipment or parts were de-
25 signed, as provided for in subsection

1 (h)(1), or, in the case of multifunction de-
2 vices, fully functional for at least one of
3 the primary purposes for which the equip-
4 ment or parts were designed;

5 “(II) appropriately packaged for ship-
6 ment as provided for in subsection (h)(1);
7 and

8 “(III) appropriately labeled or marked
9 as provided for in subsection (h)(3).

10 “(2) ADDITIONAL COVERED ELECTRONIC
11 EQUIPMENT AND RESTRICTED MATERIALS.—Not
12 later than one year after the date of enactment of
13 this section, the Administrator shall, after notice
14 and opportunity for public comment, and after con-
15 sultation with appropriate Federal and State agen-
16 cies, develop and promulgate procedures for identi-
17 fying—

18 “(A) similar electronic equipment to add to
19 the list of covered electronic equipment under
20 paragraph (1)(A); and

21 “(B) additional restricted toxic materials,
22 the presence of which in covered electronic
23 equipment poses a potential hazard to human
24 health or the environment at the end of the life
25 of the equipment.

1 Such procedures shall include a method for any in-
2 terested party to propose a new product or material
3 for review by the Administrator.

4 “(3) DE MINIMIS LEVELS.—Not later than one
5 year after the date of enactment of this section, the
6 Administrator shall, after notice and opportunity for
7 public comment, and after consultation with appro-
8 priate Federal and State agencies, develop and pro-
9 mulgate procedures for identifying de minimis levels
10 for restricted electronic waste specified under para-
11 graph (1)(B)(i)(II) or (III) below which such waste
12 shall be deemed to not pose a potential hazard to
13 human health or the environment. Notwithstanding
14 subsection (a) and the definition of restricted elec-
15 tronic waste under paragraph (1)(B), a person may
16 export restricted electronic waste described in para-
17 graph (1)(B)(i)(II) or (III) to a country described in
18 subsection (c) upon demonstration that the waste
19 does not contain more than the de minimis levels,
20 established by the Administrator under this para-
21 graph, of antimony, barium, cadmium, chromium
22 (other than hexavalent chromium), lead, thallium,
23 beryllium, arsenic, or selenium.

1 “(c) COUNTRIES TO WHICH PROHIBITION AP-
2 PLIES.—The countries referred to in subsection (a) are all
3 countries which are not—

4 “(1) members of the Organization for Economic
5 Cooperation and Development or the European
6 Union; or

7 “(2) Liechtenstein.

8 “(d) OECD.—For the purposes of export to Organi-
9 zation for Economic Cooperation and Development coun-
10 tries, circuit boards shall be subject to the amber list re-
11 quirements defined in section 262.89 of the OECD Waste
12 Lists.

13 “(e) GENERAL EXCEPTIONS.—Subject to subsection
14 (g), the prohibition under subsection (a) shall not apply
15 to—

16 “(1) furnace-ready cathode ray tube glass
17 cullet, cleaned of all phosphors, to be used as a di-
18 rect feedstock in a lead-glass manufacturing furnace
19 without further processing or preparation required
20 other than quality control, which the competent au-
21 thority in the importing country has stated in writ-
22 ing is not waste;

23 “(2) customer returns to point of sale or to
24 contractual warranty collectors of recently purchased
25 electronic equipment or parts that is either—

1 “(A) under original equipment manufac-
2 turer warranty to customers; or

3 “(B) under warranty from the original de-
4 sign manufacturer to the original equipment
5 manufacturer, or otherwise returned by the
6 original purchaser of the electronic equipment,
7 due to defect or customer dissatisfaction, and
8 the manufacturer accepts such returns for the
9 purposes of repair or replacement in order to
10 return to the customer a functional working
11 product or part of the same type and model, ex-
12 cept that products covered in this subparagraph
13 shall not include—

14 “(i) products or parts accepted for re-
15 turn from individuals or businesses under
16 general takeback, recycling, trade-in (for
17 purposes of recycling, disposal, sales pro-
18 motions, or obtaining credit for product
19 purchases or leases) or buy-back programs,
20 events, or policies designed to collect used
21 or waste electronic equipment;

22 “(ii) products or parts returned at the
23 end of leases to customers; or

24 “(iii) products or parts collected by
25 asset recovery programs; or

1 “(3) recalls of parts or products by an original
2 equipment manufacturer or original design manufac-
3 turer whereby—

4 “(A) the product or part is subject to re-
5 call notice issued by the Consumer Product
6 Safety Commission or other pertinent Federal
7 authority;

8 “(B) the original design manufacturer re-
9 quires the defective part or product to be phys-
10 ically returned to that manufacturer as a term
11 of the warranty; and

12 “(C) any export of recalled products or
13 parts is to a country from whose competent au-
14 thority the Administrator has received written
15 consent under subsection (g).

16 “(f) EXPORT CONDITIONS.—Equipment may be ex-
17 ported under subsection (e)(2) or (3) only if—

18 “(1) the Administrator has received written
19 consent under subsection (g) from the competent au-
20 thority in the country receiving the export and any
21 country the export passes through in transit;

22 “(2) the export is made by an original equip-
23 ment manufacturer or its contractual agent to the
24 original design manufacturer’s site of last assembly,
25 or to a company contracted to make warranty re-

1 pairs, for the purposes of business credit to the
2 original equipment manufacturer, repair or refurbishment and subsequent reuse;

3
4 “(3) the original equipment manufacturer has a
5 presence and assets in the United States; and

6 “(4) the person who exports the equipment or
7 parts—

8 “(A) keeps copies of normal business
9 records, such as contracts, demonstrating that
10 each shipment of exported used electronic
11 equipment or parts is intended for repair or refurbishment and subsequent reuse, which documentation shall be retained for a period of at
12 least 6 years after the date the used electronic
13 equipment or parts were exported; and

14
15
16 “(B) submits an annual report to the Administrator on the amount and types of waste
17 resulting from the refurbishment process, and
18 how it was disposed of or recycled, which shall
19 include—
20

21 “(i) number and weight of units of
22 products returned by the original equipment
23 manufacturer for repair or refurbishment,
24 listed by category and country of
25 destination; and

1 “(ii) the restricted electronic waste
2 parts or residues sent onward to further
3 reuse, disposal, or recycling following re-
4 pair or refurbishment, listed by weight, a
5 description of the wastes, and the ultimate
6 country destination.

7 “(g) EXPORT PROCEDURES.—

8 “(1) NOTICE TO ADMINISTRATOR.—Not later
9 than 60 days before the initial export shipment, an
10 exporter shall transmit to the Administrator written
11 notice of an intended export permitted under this
12 section. Such a notification may cover export activi-
13 ties extending over a maximum of 12 months for the
14 same type of restricted electronic waste, exported to
15 the same facility via the same transit countries. The
16 notification shall include the following information:

17 “(A) The name, mailing address, telephone
18 number, and EPA ID number.

19 “(B) Documentation of licensing of the ex-
20 porter by the Environmental Protection Agency
21 pursuant to subsection (h)(2).

22 “(C) The name and site address of the
23 consignee and any alternate consignee.

24 “(D) A statement from the consignee that
25 includes—

1 “(i) a description of the type and total
2 quantity of restricted electronic waste that
3 will be exported to the consignee;

4 “(ii) the estimated frequency or rate
5 at which such restricted electronic waste is
6 to be exported, and the period of time over
7 which such waste is to be exported;

8 “(iii) all points of entry to and depar-
9 ture from each country through which the
10 restricted electronic waste will pass in
11 transit;

12 “(iv) a description of the means by
13 which each shipment of the restricted elec-
14 tronic waste will be transported, including
15 the mode of transportation and type or
16 types of container; and

17 “(v) a description of the manner in
18 which the restricted electronic waste will be
19 treated, stored, or disposed of in the re-
20 ceiving country.

21 “(E) A list of all transit countries through
22 which the restricted electronic waste will be
23 transported, and a description of the approxi-
24 mate length of time the waste will remain in

1 each country and the nature of its handling
2 while there.

3 “(2) ACKNOWLEDGMENT OF CONSENT.—

4 “(A) REQUIREMENT.—No restricted elec-
5 tronic waste may be exported pursuant to this
6 section unless the written consent of the com-
7 petent authority of the receiving country, and of
8 each country through which the restricted elec-
9 tronic waste will pass in transit, has been ob-
10 tained and the Administrator has transmitted
11 to the exporter an Acknowledgment of Consent
12 reflecting receipt of each such country’s con-
13 sent.

14 “(B) COUNTRY NOTIFICATION.—In con-
15 junction with other relevant agencies, the Ad-
16 ministrator shall provide a complete notification
17 to the receiving country and any transit coun-
18 tries. A notification is complete when the Ad-
19 ministrator receives a notification which the Ad-
20 ministrator determines satisfies the require-
21 ments of this section.

22 “(C) EXPORTER NOTIFICATION.—When
23 the receiving country and all transit countries
24 have consented to the receipt or transit of the
25 restricted electronic waste, the Administrator

1 shall transmit an Acknowledgment of Consent
2 to the exporter. The exporter shall attach a
3 copy of the Acknowledgment of Consent to the
4 manifest, or otherwise ensure that the Acknowl-
5 edgment of Consent accompanies the restricted
6 electronic waste shipment.

7 “(3) WITHDRAWAL OF CONSENT.—Where the
8 receiving country or a transit country objects to re-
9 ceipt or transit of restricted electronic waste, or
10 withdraws a prior consent, the Administrator shall
11 notify the exporter in writing.

12 “(4) DEFINITION OF CONSIGNEE.—For pur-
13 poses of this subsection, the term ‘consignee’ means
14 the ultimate treatment, storage, or disposal facility
15 in a receiving country to which restricted electronic
16 waste will be sent.

17 “(h) REGULATIONS.—Not later than 12 months after
18 the date of enactment of this section, the Administrator
19 shall issue regulations for carrying out this section, includ-
20 ing—

21 “(1) testing requirements for verifying that
22 used covered electronic equipment or parts proposed
23 to be exported under this section are functional for
24 the purposes for which they were designed, including
25 requirements for proper packaging to prevent such

1 equipment or parts from losing functionality due to
2 damage during transit;

3 “(2) establishing a process whereby any entity
4 exporting restricted electronic waste from the United
5 States must be licensed by the Environmental Pro-
6 tection Agency;

7 “(3) in consultation with the appropriate Fed-
8 eral agency or agencies, provisions for an efficient
9 export control regime which will allow for—

10 “(A) distinguishing among exports of—

11 “(i) restricted electronic waste as per-
12 mitted under this section;

13 “(ii) restricted electronic waste as
14 prohibited under this section; and

15 “(iii) tested working used covered
16 electronic equipment as permitted under
17 this section; and

18 “(B) enforcement mechanisms, tests, and
19 procedures in coordination with other enforce-
20 ment procedures; and

21 “(4) establishing a registry of violators, where-
22 by any person or entity found to be exporting re-
23 stricted electronic waste in violation of this section
24 shall be listed on a public registry on a Web site

1 maintained by the Administrator for a period of 5
2 years.”.

3 (b) TABLE OF CONTENTS AMENDMENT.—The table
4 of contents for the Solid Waste Disposal Act is amended
5 by adding after the item relating to section 3023 the fol-
6 lowing new item:

“Sec. 3024. Electronic waste export restrictions.”.

7 **SEC. 3. CRIMINAL PENALTIES.**

8 Section 3008(d) of the Solid Waste Disposal Act (42
9 U.S.C. 6928(d)) is amended—

10 (1) by striking “or” at the end of paragraph

11 (6);

12 (2) by inserting “or” at the end of paragraph

13 (7); and

14 (3) by inserting after paragraph (7) the fol-
15 lowing new paragraph:

16 “(8) knowingly exports restricted electronic
17 waste in violation of section 3024;”.

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