

105TH CONGRESS
1ST SESSION

H. R. 360

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. TOWNS introduced the following bill; which was referred to the Committee on 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:

9 (1) Proposals to export solid waste from the
10 United States to foreign countries are increasing. In

1 numerous instances exported waste has contami-
2 nated the environment, adversely affected public
3 health, and contributed to foreign policy liabilities
4 for the United States.

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

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

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

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

23 (6) The international Basel Convention on the
24 Control of Transboundary Movements of Hazardous
25 Wastes and their Disposal recognizes the right and

1 indeed encourages waste export and import prohibi-
2 tions. In the first meeting of the Parties, a decision
3 was made requesting industrialized countries to pro-
4 hibit transboundary movements of hazardous wastes
5 and other wastes for disposal to developing countries
6 and further requesting developing countries to pro-
7 hibit the import of hazardous wastes from industri-
8 alized countries.

9 (b) PURPOSE.—The purpose of this Act is to prohibit
10 the export of solid waste from the United States and the
11 import of solid waste from foreign countries.

12 **SEC. 3. PROHIBITION OF EXPORT AND IMPORT OF SOLID**
13 **WASTE.**

14 (a) PROHIBITION.—Subtitle A of the Solid Waste
15 Disposal Act (42 U.S.C. 6901 et seq.) is amended by add-
16 ing at the end the following new section:

17 **“SEC. 1009. EXPORT AND IMPORT OF SOLID WASTE.**

18 “(a) PROHIBITION ON EXPORTS TO NON-OECD
19 COUNTRIES.—Effective July 1, 1994, no person may ex-
20 port any solid waste from the United States to a non-
21 OECD country, except as provided in subsection (c).

22 “(b) PROHIBITION ON EXPORTS TO AND IMPORTS
23 FROM OECD COUNTRIES.—Effective January 1, 1999, no
24 person may export any solid waste from the United States
25 to an OECD country, or import any solid waste into the

1 United States from an OECD country, except as provided
2 in subsection (c).

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

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

10 “(B) The waste is separated from the waste
11 stream.

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

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

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

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

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

21 “(i) The waste is not within, and does not
22 contain a waste within, a category of waste list-
23 ed in Annex I or Annex II of the Basel Conven-
24 tion on the Control of Transboundary Move-
25 ments of Hazardous Wastes and their Disposal.

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

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

11 “(2) If the Administrator retrieves the waste directly,
12 the Administrator shall ensure that the waste is re-
13 trieved—

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

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

23 “(3) If the foreign country does not agree to retrieval
24 of the waste, the Administrator shall dispose of or clean

1 up such waste in the foreign country, to the extent the
2 foreign country agrees to such action.

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

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

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

11 “(B) Mixed waste. For purposes of this
12 subsection, the term ‘mixed waste’ means haz-
13 ardous waste or nonhazardous waste mixed with
14 low-level radioactive waste.

15 “(C) All wastes covered by the Basel Con-
16 vention on the Control of Transboundary Move-
17 ments of Hazardous Wastes and their Disposal,
18 as set forth in Annexes I, II, and III of that
19 convention.

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

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

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

7 “(g) ENFORCEMENT.—

8 “(1) COMPLIANCE ORDERS.—(A) Whenever on
9 the basis of any information the Administrator de-
10 termines that any person has violated or is in viola-
11 tion of any requirement of this section, the Adminis-
12 trator may—

13 “(i) issue an order assessing a civil penalty
14 for any past or current violation, requiring com-
15 pliance immediately or within a specified time
16 period, or both; or

17 “(ii) commence a civil action in the United
18 States district court in the district in which the
19 violation occurred for appropriate relief, includ-
20 ing a temporary or permanent injunction.

21 “(B) A compliance order issued under subpara-
22 graph (A)(i) shall include, in the case of a person
23 exporting waste in violation of this section, a re-
24 quirement to retrieve the waste from the recipient
25 foreign country within 90 days after issuance of the

1 order, or within such shorter period of time as the
2 Administrator considers appropriate, if the foreign
3 country agrees to such retrieval.

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

6 “(i) in the case of a person exporting waste
7 in violation of this section, a requirement to dis-
8 pose of or clean up the waste in the foreign
9 country, to the extent agreed to by the foreign
10 country; or

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

18 “(2) PUBLIC HEARING.—Any order issued
19 under this subsection shall become final unless, not
20 later than 30 days after the order is served, the per-
21 son or persons named in the order request a public
22 hearing. Upon such request, the Administrator shall
23 promptly conduct a public hearing. In connection
24 with any proceeding under this section the Adminis-
25 trator may issue subpoenas for the attendance and

1 testimony of witnesses and the production of rel-
2 evant papers, books, and documents, and may pro-
3 mulgate rules for discovery procedure.

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

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

16 “(4) CRIMINAL PENALTIES.—Any person who
17 knowingly violates the prohibition contained in this
18 section or any requirement of regulations promul-
19 gated under subsection (e) shall be subject to im-
20 prisonment for not to exceed 10 years, fined in ac-
21 cordance with title 18, United States Code, or both,
22 for each such violation.

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

5 (b) REPEAL OF EXISTING AUTHORITY.—Section
6 3017 of the Solid Waste Disposal Act is repealed. The
7 table of contents for subtitle C of such Act is amended
8 by striking out the item relating to such section.

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

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

○