

107TH CONGRESS  
2D SESSION

# S. 2792

To amend the Solid Waste Disposal Act to authorize the Administrator of the Environmental Protection Agency to carry out certain authorities relating to the importation of municipal solid waste under the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada.

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## IN THE SENATE OF THE UNITED STATES

JULY 25, 2002

Mr. LEVIN introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Solid Waste Disposal Act to authorize the Administrator of the Environmental Protection Agency to carry out certain authorities relating to the importation of municipal solid waste under the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada.

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

1 **SECTION 1. CANADIAN TRANSBOUNDARY MOVEMENT OF**  
 2 **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 at the end the following:

6 **“SEC. 4011. CANADIAN TRANSBOUNDARY MOVEMENT OF**  
 7 **MUNICIPAL SOLID WASTE.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) AGREEMENT.—The term ‘Agreement’  
 10 means—

11 “(A) the Agreement Concerning the  
 12 Transboundary Movement of Hazardous Waste  
 13 between the United States and Canada, signed  
 14 at Ottawa on October 28, 1986 (TIAS 11099);  
 15 and

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

18 “(2) MUNICIPAL SOLID WASTE.—The term  
 19 ‘municipal solid waste’ has the meaning given the  
 20 term in the Agreement.

21 “(b) PROHIBITION.—It shall be unlawful for any per-  
 22 son to import, transport, or export municipal solid waste,  
 23 for final disposal or incineration, in violation of the Agree-  
 24 ment.

25 “(c) AUTHORITY OF ADMINISTRATOR.—

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

4           “(A) perform the functions of the Des-  
5 ignated Authority of the United States de-  
6 scribed in the Agreement with respect to the  
7 importation and exportation of municipal solid  
8 waste under the Agreement; and

9           “(B) implement and enforce the Agree-  
10 ment (including notice and consent provisions  
11 of the Agreement).

12           “(2) CONSENT TO IMPORTATION.—In consid-  
13 ering whether to consent to the importation of mu-  
14 nicipal solid waste under article 3(c) of the Agree-  
15 ment, the Administrator shall—

16           “(A) give substantial consideration to the  
17 views of each State into which the municipal  
18 solid waste is to be imported; and

19           “(B) consider the impact of the importa-  
20 tion on—

21           “(i) continued public support for, and  
22 adherence to, State and local recycling pro-  
23 grams;

24           “(ii) landfill capacity, as provided in  
25 comprehensive waste management plans;

1 “(iii) air emissions resulting from in-  
2 creased vehicular traffic;

3 “(iv) road deterioration resulting from  
4 increased vehicular traffic; and

5 “(v) public health and the environ-  
6 ment.

7 “(d) COMPLIANCE ORDERS.—

8 “(1) IN GENERAL.—If, on the basis of any in-  
9 formation, the Administrator determines that a per-  
10 son has violated or is in violation of this section, the  
11 Administrator may—

12 “(A) issue an order that—

13 “(i) assesses a civil penalty against  
14 the person for any past or current violation  
15 of the person; or

16 “(ii) requires compliance by the per-  
17 son with this section immediately or by a  
18 specified date; or

19 “(B) bring a civil action against the person  
20 for appropriate relief (including a temporary or  
21 permanent injunction) in the United States dis-  
22 trict court for the district in which the violation  
23 occurred.

24 “(2) SPECIFICITY.—

1           “(A) IN GENERAL.—Any order issued  
 2           under paragraph (1) for a violation of this sub-  
 3           section shall state with reasonable specificity  
 4           the nature of the violation.

5           “(B) PENALTIES.—

6           “(i) MAXIMUM PENALTY.—Any pen-  
 7           alty assessed by an order issued under  
 8           paragraph (1) shall not exceed \$25,000 per  
 9           day of noncompliance for each violation.

10          “(ii) CONSIDERATIONS.—In assessing  
 11          a penalty under this section, the Adminis-  
 12          trator shall take into account—

13                 “(I) the seriousness of the viola-  
 14                 tion for which the penalty is assessed;  
 15                 and

16                 “(II) any good faith efforts of the  
 17                 person against which the penalty is  
 18                 assessed to comply with applicable re-  
 19                 quirements.

20          “(e) PUBLIC HEARING.—

21                 “(1) IN GENERAL.—Any order issued under  
 22                 this section shall become final unless, not later than  
 23                 30 days after the date of issuance of the order, the  
 24                 person or persons against which the order is issued

1 submit to the Administrator a request for a public  
2 hearing.

3 “(2) HEARING.—On receipt of a request under  
4 paragraph (1), the Administrator shall promptly  
5 conduct a public hearing.

6 “(3) SUBPOENAS.—In connection with any  
7 hearing under this subsection, the Administrator  
8 may—

9 “(A) issue subpoenas for—

10 “(i) the attendance and testimony of  
11 witnesses; and

12 “(ii) the production of relevant pa-  
13 pers, books, and documents; and

14 “(B) promulgate regulations that provide  
15 for procedures for discovery.

16 “(f) VIOLATION OF COMPLIANCE ORDERS.—If a per-  
17 son against which an order is issued fails to take corrective  
18 action as specified in the order, the Administrator may  
19 assess a civil penalty of not more than \$25,000 for each  
20 day of continued noncompliance with the order.”.

21 (b) TABLE OF CONTENTS.—The table of contents of  
22 the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is  
23 amended by adding at the end of the items relating to  
24 subtitle D the following:

“Sec. 4011. Canadian transboundary movement of municipal solid waste.”.