

108TH CONGRESS
1ST SESSION

S. 199

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.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 2003

Mr. LEVIN (for himself and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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)(i) give substantial weight to the views
17 of each State into which the municipal solid
18 waste is to be imported; and

19 “(ii) consider the views of the local govern-
20 ment having jurisdiction over the location at
21 which municipal solid waste is to be disposed of;
22 and

23 “(B) consider the impact of the importa-
24 tion on—

1 “(i) continued public support for, and
 2 adherence to, State and local recycling pro-
 3 grams;

4 “(ii) landfill capacity, as provided in
 5 comprehensive waste management plans;

6 “(iii) air emissions resulting from in-
 7 creased vehicular traffic;

8 “(iv) road deterioration resulting from
 9 increased vehicular traffic; and

10 “(v) public health and the environ-
 11 ment.

12 “(d) COMPLIANCE ORDERS.—

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

17 “(A) issue an order that—

18 “(i) assesses a civil penalty against
 19 the person for any past or current violation
 20 of the person; or

21 “(ii) requires compliance by the per-
 22 son with this section immediately or by a
 23 specified date; or

24 “(B) bring a civil action against the person
 25 for appropriate relief (including a temporary or

1 permanent injunction) in the United States dis-
2 trict court for the district in which the violation
3 occurred.

4 “(2) SPECIFICITY.—

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

9 “(B) PENALTIES.—

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

14 “(ii) CONSIDERATIONS.—In assessing
15 a penalty under this section, the Adminis-
16 trator shall take into account—

17 “(I) the seriousness of the viola-
18 tion for which the penalty is assessed;
19 and

20 “(II) any good faith efforts of the
21 person against which the penalty is
22 assessed to comply with applicable re-
23 quirements.

24 “(e) PUBLIC HEARING.—

1 “(1) IN GENERAL.—Any order issued under
2 this section shall become final unless, not later than
3 30 days after the date of issuance of the order, the
4 person or persons against which the order is issued
5 submit to the Administrator a request for a public
6 hearing.

7 “(2) HEARING.—On receipt of a request under
8 paragraph (1), the Administrator shall promptly
9 conduct a public hearing.

10 “(3) SUBPOENAS.—In connection with any
11 hearing under this subsection, the Administrator
12 may—

13 “(A) issue subpoenas for—

14 “(i) the attendance and testimony of
15 witnesses; and

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

18 “(B) promulgate regulations that provide
19 for procedures for discovery.

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

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

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

