

109TH CONGRESS
1ST SESSION

H. R. 2109

To direct the Administrator of the Environmental Protection Agency to carry out certain authorities under an agreement with Canada respecting the importation of municipal solid waste, to amend the Solid Waste Disposal Act to authorize States to restrict receipt of foreign municipal solid waste, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2005

Mr. STUPAK (for himself, Mr. DINGELL, Mr. KILDEE, Mr. CONYERS, Mr. BROWN of Ohio, Mr. LEVIN, Mr. GENE GREEN of Texas, and Ms. BALDWIN) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To direct the Administrator of the Environmental Protection Agency to carry out certain authorities under an agreement with Canada respecting the importation of municipal solid waste, to amend the Solid Waste Disposal Act to authorize States to restrict receipt of foreign municipal solid 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,*

1 **SECTION 1. CANADIAN TRANSBOUNDARY MOVEMENT OF**
2 **MUNICIPAL SOLID WASTE.**

3 (a) AMENDMENT.—Subtitle D of the Solid Waste
4 Disposal Act (42 U.S.C. 6941 et seq.) is amended by add-
5 ing at the end the following new section:

6 “CANADIAN TRANSBOUNDARY MOVEMENT OF MUNICIPAL
7 SOLID WASTE

8 “SEC. 4011. (a) PROHIBITION.—No person shall im-
9 port, transport, or export municipal solid waste for final
10 disposal or for incineration in violation of the Agreement
11 Between the Government of the United States of America
12 and the Government of Canada Concerning the
13 Transboundary Movement of Hazardous Waste, or any
14 regulations issued to implement and enforce such agree-
15 ment.

16 “(b) ADMINISTRATOR’S AUTHORITY.—The Adminis-
17 trator shall perform the functions of the Designated Au-
18 thority of the United States with respect to the importa-
19 tion and exportation of municipal solid waste under the
20 agreement described in subsection (a). Beginning imme-
21 diately upon the enactment of this section, the Adminis-
22 trator shall implement and enforce the notice and consent
23 provisions of such agreement, as well as the other provi-
24 sions thereof. In considering whether to consent to the im-
25 portation of municipal solid waste under article 3(c) of
26 such agreement, the Administrator shall—

1 “(1) give substantial weight to the views of the
2 State or States into which the municipal solid waste
3 is to be imported, and consider the views of the local
4 government with jurisdiction over the location where
5 the waste is to be disposed; and

6 “(2) consider the impact of the importation
7 on—

8 “(A) continued public support for and ad-
9 herence to State and local recycling programs;

10 “(B) landfill capacity as provided in com-
11 prehensive waste management plans;

12 “(C) air emissions from increased vehicular
13 traffic;

14 “(D) road deterioration from increased ve-
15 hicular traffic; and

16 “(E) public health and the environment.

17 “(c) COMPLIANCE ORDERS.—(1) Whenever on the
18 basis of any information the Administrator determines
19 that any person has violated or is in violation of this sec-
20 tion, the Administrator may issue an order assessing a
21 civil penalty for any past or current violation, requiring
22 compliance immediately or within a specified time period,
23 or both, or the Administrator may commence a civil action
24 in the United States district court in the district in which

1 the violation occurred for appropriate relief, including a
2 temporary or permanent injunction.

3 “(2) Any order issued pursuant to this subsection
4 shall state with reasonable specificity the nature of the vio-
5 lation. Any penalty assessed in the order shall not exceed
6 \$25,000 per day of noncompliance for each violation. In
7 assessing such a penalty, the Administrator shall take into
8 account the seriousness of the violation and any good faith
9 efforts to comply with applicable requirements.

10 “(d) PUBLIC HEARING.—Any order issued under this
11 section shall become final unless, not later than 30 days
12 after the order is served, the person or persons named
13 therein request a public hearing. Upon such request the
14 Administrator shall promptly conduct a public hearing. In
15 connection with any proceeding under this section the Ad-
16 ministrator may issue subpoenas for the attendance and
17 testimony of witnesses and the production of relevant pa-
18 pers, books, and documents, and may promulgate rules for
19 discovery procedures.

20 “(e) VIOLATION OF COMPLIANCE ORDERS.—If a vio-
21 lator fails to take corrective action within the time speci-
22 fied in a compliance order, the Administrator may assess
23 a civil penalty of not more than \$25,000 for each day of
24 continued noncompliance with the order.”.

1 (b) TABLE OF CONTENTS AMENDMENT.—The table
2 of contents of such subtitle D is amended by adding at
3 the end the following new item:

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

4 **SEC. 2. INTERSTATE AND INTERNATIONAL TRANSPOR-**
5 **TATION AND DISPOSAL OF MUNICIPAL SOLID**
6 **WASTE.**

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

10 **“SEC. 4012. INTERNATIONAL TRANSPORTATION AND DIS-**
11 **POSAL OF MUNICIPAL SOLID WASTE.**

12 “(a) AUTHORITY.—A State may enact a law or laws
13 imposing limitations (including a prohibition) on the re-
14 ceipt and disposal of foreign municipal solid waste.

15 “(b) EFFECT ON INTERSTATE AND FOREIGN COM-
16 MERCE.—No State action taken as authorized by this sec-
17 tion shall be considered to impose an undue burden on
18 interstate and foreign commerce or to otherwise impair,
19 restrain, or discriminate against interstate and foreign
20 commerce.

21 “(c) DEFINITIONS.—For purposes of this section:

22 “(1) FOREIGN MUNICIPAL SOLID WASTE.—The
23 term ‘foreign municipal solid waste’ means munic-
24 ipal solid waste generated outside of the United
25 States.

1 “(2) MUNICIPAL SOLID WASTE.—

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

5 “(i) all waste materials discarded for
6 disposal by households, including single
7 and multifamily residences, and hotels and
8 motels; and

9 “(ii) all waste materials discarded for
10 disposal that were generated by commer-
11 cial, institutional, municipal, and industrial
12 sources, to the extent such materials—

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

15 “(II) were collected and disposed
16 of with other municipal solid waste
17 described in clause (i) or subclause (I)
18 of this clause as part of normal mu-
19 nicipal solid waste collection services,
20 except that this subclause does not
21 apply to hazardous materials other
22 than hazardous materials that, pursu-
23 ant to regulations issued under sec-
24 tion 3001(d), are not subject to regu-
25 lation under subtitle C.

1 Examples of municipal solid waste include food
2 and yard waste, paper, clothing, appliances,
3 consumer product packaging, disposable dia-
4 pers, office supplies, cosmetics, glass and metal
5 food containers, and household hazardous
6 waste. Such term shall include debris resulting
7 from construction, remodeling, repair, or demo-
8 lition of structures.

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

12 “(i) Any solid waste identified or list-
13 ed as a hazardous waste under section
14 3001, except for household hazardous
15 waste.

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

18 “(I) a response action taken
19 under section 104 or 106 of the Com-
20 prehensive Environmental Response,
21 Compensation, and Liability Act (42
22 U.S.C. 9604 or 9606);

23 “(II) a response action taken
24 under a State law with authorities

1 comparable to the authorities of such
2 section 104 or 106; or

3 “(III) a corrective action taken
4 under this Act.

5 “(iii) Recyclable materials that have
6 been separated, at the source of the waste,
7 from waste otherwise destined for disposal
8 or that have been managed separately from
9 waste destined for disposal.

10 “(iv) Scrap rubber to be used as a
11 fuel source.

12 “(v) Materials and products returned
13 from a dispenser or distributor to the man-
14 ufacturer or an agent of the manufacturer
15 for credit, evaluation, and possible reuse.

16 “(vi) Any solid waste that is—

17 “(I) generated by an industrial
18 facility; and

19 “(II) transported for the purpose
20 of treatment, storage, or disposal to a
21 facility or unit thereof that is owned
22 or operated by the generator of the
23 waste, located on property owned by
24 the generator or a company with
25 which the generator is affiliated, or

1 the capacity of which is contractually
2 dedicated exclusively to a specific gen-
3 erator, so long as the disposal area
4 complies with local and State land use
5 and zoning regulations applicable to
6 the disposal site.

7 “(vii) Any medical waste that is seg-
8 regated from or not mixed with solid
9 waste.

10 “(viii) Sewage sludge and residuals
11 from any sewage treatment plant.

12 “(ix) Combustion ash generated by re-
13 source recovery facilities or municipal in-
14 cinerators, or waste from manufacturing or
15 processing (including pollution control) op-
16 erations not essentially the same as waste
17 normally generated by households.”.

18 (b) TABLE OF CONTENTS AMENDMENT.—The table
19 of contents of the Solid Waste Disposal Act (42 U.S.C.
20 prec. 6901) is further amended by adding at the end the
21 following new item:

“Sec. 4012. International transportation and disposal of municipal solid
waste.”.

○