

109TH CONGRESS  
2D SESSION

# H. R. 2491

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7 (legislative day, SEPTEMBER 6), 2006

Received; read twice and referred to the Committee on Environment and  
Public Works

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## AN ACT

To amend the Solid Waste Disposal Act to authorize States to restrict receipt of foreign municipal solid waste and implement the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada, 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. SHORT TITLE.**

2 This Act may be cited as the “International Solid  
3 Waste Importation and Management Act of 2006”.

4 **SEC. 2. INTERNATIONAL TRANSPORTATION AND DISPOSAL**  
5 **OF MUNICIPAL SOLID WASTE.**

6 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-  
7 posal Act (42 U.S.C. 6941 et seq.) is amended by adding  
8 after section 4010 the following new section:

9 **“SEC. 4011. INTERNATIONAL TRANSPORTATION AND DIS-**  
10 **POSAL OF MUNICIPAL SOLID WASTE.**

11 “(a) STATE AUTHORITY TO ADDRESS IMPORTATION  
12 AND MANAGEMENT OF MUNICIPAL SOLID WASTE.—

13 “(1) IN GENERAL.—Until the date on which all  
14 final regulations issued by the Administrator to im-  
15 plement and enforce the Agreement (including notice  
16 and consent provisions of the Agreement) become ef-  
17 fective, a State may enact a law or laws or issue reg-  
18 ulations or orders imposing limitations on the receipt  
19 and disposal of foreign municipal solid waste within  
20 the State. Laws, regulations, and orders enacted or  
21 issued before that date may continue in effect ac-  
22 cording to their terms after that date.

23 “(2) EFFECT ON INTERSTATE AND FOREIGN  
24 COMMERCE.—No State action taken as authorized  
25 by this section shall be considered to impose an  
26 undue burden on interstate and foreign commerce or

1 to otherwise impair, restrain, or discriminate against  
2 interstate and foreign commerce.

3 “(3) TRADE AND TREATY OBLIGATIONS.—  
4 Nothing in this section affects, replaces, or amends  
5 prior law relating to the need for consistency with  
6 international trade obligations.

7 “(b) AUTHORITY OF ADMINISTRATOR.—

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

11 “(A) perform the functions of the Des-  
12 ignated Authority of the United States de-  
13 scribed in the Agreement with respect to the  
14 importation and exportation of municipal solid  
15 waste under the Agreement; and

16 “(B) implement and enforce the notice and  
17 consent and other provisions of the Agreement.

18 “(2) REGULATIONS.—Not later than 24 months  
19 after the date of enactment of this section, the Ad-  
20 ministrator shall issue final regulations with respect  
21 to the Administrator’s responsibilities under para-  
22 graph (1).

23 “(3) CONSENT TO IMPORTATION.—In consid-  
24 ering whether to consent to the importation under

1 article 3(c) of the Agreement, the Administrator  
2 shall—

3 “(A) give substantial weight to the views of  
4 the State or States into which the municipal  
5 solid waste is to be imported, and consider the  
6 views of the local government with jurisdiction  
7 over the location where the waste is to be dis-  
8 posed;

9 “(B) consider the impact of the importa-  
10 tion on—

11 “(i) continued public support for and  
12 adherence to State and local recycling pro-  
13 grams;

14 “(ii) landfill capacity as provided in  
15 comprehensive waste management plans;

16 “(iii) air emissions from increased ve-  
17 hicular traffic; and

18 “(iv) road deterioration from in-  
19 creased vehicular traffic; and

20 “(C) consider the impact of the importa-  
21 tion on homeland security, public health, and  
22 the environment.

23 “(4) ACTIONS IN VIOLATION OF THE AGREE-  
24 MENT.—No person shall import, transport, or export

1       municipal solid waste for final disposal or for incin-  
2       eration in violation of the Agreement.

3       “(c) COMPLIANCE ORDERS.—(1) Whenever on the  
4 basis of any information the Administrator determines  
5 that any person has violated or is in violation of this sec-  
6 tion, the Administrator may issue an order assessing a  
7 civil penalty for any past or current violation, requiring  
8 compliance immediately or within a specified time period,  
9 or both, or the Administrator may commence a civil action  
10 in the United States district court in the district in which  
11 the violation occurred for appropriate relief, including a  
12 temporary or permanent injunction.

13       “(2) Any order issued pursuant to this sub-  
14 section shall state with reasonable specificity the na-  
15 ture of the violation. Any penalty assessed in the  
16 order shall not exceed \$25,000 per day of non-  
17 compliance for each violation. In assessing such a  
18 penalty, the Administrator shall take into account  
19 the seriousness of the violation and any good faith  
20 efforts to comply with applicable requirements.

21       “(d) PUBLIC HEARING.—Any order issued under this  
22 section shall become final unless, not later than 30 days  
23 after the order is served, the person or persons named  
24 therein request a public hearing. Upon such request the  
25 Administrator shall promptly conduct a public hearing. In

1 connection with any proceeding under this section the Ad-  
2 ministrator may issue subpoenas for the attendance and  
3 testimony of witnesses and the production of relevant pa-  
4 pers, books, and documents, and may promulgate rules for  
5 discovery procedures.

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

11 “(f) DEFINITIONS.—For purposes of this section:

12 “(1) AGREEMENT.—The term ‘Agreement’  
13 means—

14 “(A) the Agreement Concerning the  
15 Transboundary Movement of Hazardous Waste  
16 between the United States and Canada, signed  
17 at Ottawa on October 28, 1986 (TIAS 11099)  
18 and amended on November 25, 1992; and

19 “(B) any regulations promulgated and or-  
20 ders issued to implement and enforce that  
21 Agreement.

22 “(2) 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 “(3) 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  
2 food and yard waste, paper, clothing, appli-  
3 ances, consumer product packaging, dis-  
4 posable diapers, office supplies, cosmetics,  
5 glass and metal food containers, and  
6 household hazardous waste. Such term  
7 shall include debris resulting from con-  
8 struction, remodeling, repair, or demolition  
9 of structures.

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

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

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

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

24 “(II) a response action taken  
25 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 “(x) Solid waste generated incident to  
19 the provision of service in interstate, intra-  
20 state, foreign, or overseas air transpor-  
21 tation.”.

22 (b) TABLE OF CONTENTS AMENDMENT.—The table  
23 of contents of the Solid Waste Disposal Act (42 U.S.C.  
24 prec. 6901) is amended by adding after the item relating  
25 to section 4010 the following new item:

“Sec. 4011. International transportation and disposal of municipal solid waste.”.

Passed the House of Representatives September 6,  
2006.

Attest:

KAREN L. HAAS,  
*Clerk.*