

113TH CONGRESS
1ST SESSION

H. R. 2791

To prohibit the export from the United States of certain electronic waste,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2013

Mr. GENE GREEN of Texas (for himself, Mr. THOMPSON of California, Mr. McCAUL, Mr. STIVERS, Ms. SLAUGHTER, and Mr. COFFMAN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit the export from the United States of certain
electronic 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Responsible Elec-
5 tronics Recycling Act”.

1 **SEC. 2. ELECTRONIC WASTE EXPORT RESTRICTIONS.**

2 (a) AMENDMENT.—Subtitle C of the Solid Waste
3 Disposal Act (42 U.S.C. 6921 et seq.) is amended by add-
4 ing at the end the following new section:

5 **“SEC. 3025. ELECTRONIC WASTE EXPORT RESTRICTIONS.**

6 “(a) IN GENERAL.—Beginning on the date that is 30
7 months after the date of enactment of this section, no per-
8 son shall export restricted electronic waste to a country
9 described in subsection (e).

10 “(b) DEFINITIONS; RULE OF CONSTRUCTION.—For
11 purposes of this section:

12 “(1) CONSIGNEE.—The term ‘consignee’ means
13 the ultimate repair, refurbishment, treatment, stor-
14 age, or disposal facility in a receiving country to
15 which restricted electronic waste will be sent.

16 “(2) COVERED ELECTRONIC EQUIPMENT.—

17 “(A) IN GENERAL.—The term ‘covered
18 electronic equipment’ means the following used
19 items, whole or in fragments, including parts,
20 components, or assemblies thereof:

21 “(i) Computers.

22 “(ii) Central processing units.

23 “(iii) Mobile computers (including
24 notebooks, netbooks, tablets, and e-book
25 readers).

1 “(iv) Computer accessories (including
2 input devices, webcams, speakers, data
3 storage devices, servers, and monitors).

4 “(v) Televisions (including portable
5 televisions and portable DVD players).

6 “(vi) Video display devices (including
7 digital picture frames and portable video
8 devices).

9 “(vii) Digital imaging devices (includ-
10 ing printers, copiers, facsimile machines,
11 image scanners, and multifunction ma-
12 chines).

13 “(viii) Television peripheral devices
14 (including video cassette recorders, DVD
15 players, video game systems, game control-
16 lers, signal converter boxes, and cable and
17 satellite receivers).

18 “(ix) Digital cameras and projectors.

19 “(x) Digital audio players.

20 “(xi) Telephones and electronic com-
21 munication equipment (including cellular
22 phones and wireless Internet communica-
23 tion devices).

1 “(xii) Networking devices (including
2 routers, network cards, modems, and
3 hubs).

4 “(xiii) Audio equipment.

5 “(xiv) Portable video game systems.

6 “(xv) Personal digital assistants.

7 “(xvi) Portable global positioning sys-
8 tem navigation devices.

9 “(xvii) Other used electronic products
10 the Administrator determines to be similar
11 under the procedures promulgated in ac-
12 cordance with subsection (c).

13 “(B) EXCEPTION.—The term ‘covered elec-
14 tronic equipment’ shall not include parts of a
15 motor vehicle.

16 “(3) RESTRICTED ELECTRONIC WASTE.—

17 “(A) IN GENERAL.—The term ‘restricted
18 electronic waste’ means—

19 “(i) items of covered electronic equip-
20 ment that include, contain, are derived
21 from, or consist of—

22 “(I) cathode ray tubes or cathode
23 ray tube glass in any form, or cathode
24 ray tube phosphor residues or dusts in
25 any form;

1 “(II) a lamp or other device con-
2 taining mercury phosphor;

3 “(III) batteries containing—

4 “(aa) lead, cadmium, or
5 mercury; or

6 “(bb) organic solvents exhib-
7 iting the characteristic of ignit-
8 ability, as defined in section
9 261.21 of title 40, Code of Fed-
10 eral Regulations;

11 “(IV) switches or any other de-
12 vices containing mercury;

13 “(V) hexavalent chromium;

14 “(VI) other than batteries de-
15 scribed in subclause (III), items con-
16 taining antimony, barium, cadmium,
17 lead, thallium, beryllium, arsenic, or
18 selenium, including—

19 “(aa) circuit boards;

20 “(bb) printer drums;

21 “(cc) liquid crystal displays;

22 “(dd) flatscreen glass; and

23 “(ee) light emitting diodes;

24 or

1 “(ii) any other covered electronic
2 equipment, or materials derived therefrom,
3 containing any other toxic material, in ele-
4 mental or compound form, identified by
5 the Administrator under subsection (c).

6 “(B) EXCEPTIONS.—The term ‘restricted
7 electronic waste’ shall not apply to items de-
8 scribed in this subparagraph.

9 “(i) DE MINIMIS.—Covered electronic
10 equipment described in subparagraphs
11 (A)(i)(VI) and (A)(ii), including separated
12 component streams (such as plastics or
13 metals), which does not exceed de minimis
14 levels set by the Administrator under sub-
15 section (d).

16 “(ii) REUSE.—Covered electronic
17 equipment that is—

18 “(I) tested, pursuant to sub-
19 section (i)(1), prior to export and
20 found to be—

21 “(aa) functional for the pur-
22 pose for which the equipment
23 was designed, or, in the case of
24 multifunction devices, fully func-
25 tional for at least one of the pri-

1 mary purposes for which the
2 equipment was designed; and

3 “(bb) appropriately pack-
4 aged for shipment to prevent the
5 equipment from losing functional-
6 ity due to damage during transit;
7 and

8 “(II) appropriately labeled or
9 marked pursuant to subsection
10 (i)(3)(A).

11 “(iii) CERTAIN CATHODE RAY TUBE
12 GLASS.—Furnace-ready cathode ray tube
13 glass cullet, cleaned of all phosphors, that
14 the competent authority in the importing
15 country declares in writing is not waste, to
16 be used as—

17 “(I) a direct feedstock in a lead-
18 glass manufacturing furnace; or

19 “(II) another feedstock applica-
20 tion that does not require further
21 processing or preparation other than
22 quality control.

23 “(iv) WARRANTIES.—Customer re-
24 turns, to point of sale, to original equip-
25 ment manufacturers, or to contractual

warranty collectors, of recently purchased covered electronic equipment—

“(I) that is either—

“(aa) under original equipment manufacturer warranty to customers; or

“(bb) under warranty from the original design manufacturer or original component manufacturer to the original equipment manufacturer, or otherwise returned by the original purchaser of the electronic equipment, due to defect or customer dissatisfaction, and the manufacturer accepts such returns for the purposes of repair or replacement in order to return to the customer a functional working product or part of the same type and model, except that products and parts covered in this item shall not include—

“(AA) covered electronic equipment accepted

1 for return from individuals
2 or businesses under general
3 takeback, recycling, trade-in
4 (for purposes of recycling,
5 disposal, sales promotions,
6 or obtaining credit for prod-
7 uct purchases or leases) or
8 buy-back programs, events,
9 or policies designed to col-
10 lect used or waste electronic
11 equipment;

12 “(BB) covered elec-
13 tronic equipment returned at
14 the end of leases to cus-
15 tomers; or

16 “(CC) covered elec-
17 tronic equipment collected
18 by asset recovery programs;
19 and

20 “(II) where any export of such
21 covered electronic equipment is to a
22 country from whose competent au-
23 thority the Administrator receives
24 written consent pursuant to sub-
25 section (h)(1).

1 “(v) RECALLS.—Recalls of covered
2 electronic equipment by an original equip-
3 ment manufacturer, original design manu-
4 facturer, or original component manufac-
5 turer where—

6 “(I) the covered electronic equip-
7 ment is subject to recall notice issued
8 by the Consumer Product Safety
9 Commission or other pertinent Fed-
10 eral authority;

11 “(II) the original design manu-
12 facturer or original component manu-
13 facturer requires the defective covered
14 electronic equipment to be physically
15 returned to that manufacturer as a
16 term of the warranty; and

17 “(III) any export of recalled cov-
18 ered electronic equipment is to a
19 country from whose competent au-
20 thority the Administrator receives
21 written consent pursuant to sub-
22 section (h)(1).

23 “(4) RULE OF CONSTRUCTION REGARDING
24 CHEMICAL ELEMENTS.—Any reference to a chemical

1 element shall be construed to be a reference to that
2 element in compound or elemental form.

3 “(c) ADDITIONAL COVERED ELECTRONIC EQUIP-
4 MENT AND RESTRICTED MATERIALS.—Not later than 18
5 months after the date of enactment of this section, the
6 Administrator shall, after notice and opportunity for pub-
7 lic comment, and after consultation with appropriate Fed-
8 eral and State agencies, develop and promulgate proce-
9 dures for identifying—

10 “(1) similar electronic equipment to add to the
11 list of covered electronic equipment under subsection
12 (b)(2); and

13 “(2) additional restricted toxic materials to add
14 to the list in subsection (b)(3)(A)(ii), the presence of
15 which in covered electronic equipment poses a poten-
16 tial hazard to human health or the environment.

17 Such procedures shall include a method for any interested
18 party to propose a new product or material for review by
19 the Administrator.

20 “(d) DE MINIMIS LEVELS.—Not later than 18
21 months after the date of enactment of this section, the
22 Administrator shall, after notice and opportunity for pub-
23 lic comment, and after consultation with appropriate Fed-
24 eral and State agencies, develop and promulgate proce-
25 dures for identifying de minimis levels for restricted elec-

1 tronic waste described in subparagraphs (A)(i)(VI) and
2 (A)(ii) of subsection (b)(3), below which such waste is de-
3 termined by the Administrator not to pose a potential haz-
4 ard to human health or the environment.

5 “(e) COUNTRIES TO WHICH PROHIBITION AP-
6 PLIES.—The countries referred to in subsection (a) are all
7 countries which are not—

8 “(1) members of the Organisation for Economic
9 Co-operation and Development or the European
10 Union; or

11 “(2) Liechtenstein.

12 “(f) NOTICE TO ADMINISTRATOR.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), no person shall export covered electronic
15 equipment described in subsection (b)(3)(B) to a
16 country described in subsection (e) unless, not later
17 than 60 days before the initial export shipment, such
18 person transmits to the Administrator written notice
19 of an intended export. Such a notification may cover
20 export activities extending over a maximum of 12
21 months for the same type of covered electronic
22 equipment, exported to the same facility via the
23 same transit countries. The notification shall include
24 the following information:

1 “(A) The name, mailing address, telephone
2 number, and if applicable, the Environmental
3 Protection Agency or Resource Conservation
4 and Recovery Act identification number.

5 “(B) Documentation of licensing of the ex-
6 porter under subsection (g).

7 “(C) The name and site address of the
8 consignee and any alternate consignee.

9 “(D) A statement from the exporter that
10 includes—

11 “(i) a description of the type and total
12 quantity of covered electronic equipment
13 that will be exported to the consignee;

14 “(ii) the estimated frequency or rate
15 at which such covered electronic equipment
16 is to be exported, and the period of time
17 over which such covered electronic equip-
18 ment is to be exported;

19 “(iii) all points of entry to and depar-
20 ture from each country through which the
21 covered electronic equipment will pass in
22 transit;

23 “(iv) a description of the means by
24 which each shipment of the covered elec-
25 tronic equipment will be transported, in-

1 cluding the mode of transportation and
2 type or types of container; and

3 “(v) a description of the manner in
4 which the covered electronic equipment will
5 be treated, stored, or disposed of in the re-
6 ceiving country.

7 “(E) A list of all transit countries through
8 which the covered electronic equipment will be
9 transported, and a description of the approxi-
10 mate length of time the covered electronic
11 equipment will remain in each country and the
12 nature of its handling while there.

13 “(2) EXCEPTION.—The requirements of para-
14 graph (1) shall not apply with respect to exports of
15 covered electronic equipment described in subsection
16 (b)(3)(B)(i), or exports of covered electronic equip-
17 ment described in subsection (b)(3)(B)(ii).

18 “(g) LICENSES.—In order to export covered elec-
19 tronic equipment to a country described in subsection (e)
20 under the exceptions to restricted electronic waste in sub-
21 section (b)(3)(B), an entity shall obtain a license for such
22 export that is issued by the Administrator in accordance
23 with regulations issued under subsection (i)(2).

24 “(h) ADDITIONAL EXPORT CONDITIONS.—

25 “(1) WARRANTIES AND RECALLS.—

1 “(A) IN GENERAL.—No person shall ex-
2 port covered electronic equipment to a country
3 described in subsection (e) under the exceptions
4 to restricted electronic waste in subsections
5 (b)(3)(B)(iv) or (v) unless—

6 “(i) the export is made by an original
7 equipment manufacturer or its contractual
8 agent to the original design manufacturer
9 or original component manufacturer’s site
10 of last assembly, or to a company con-
11 tracted to make warranty repairs, for the
12 purposes of business credit to the original
13 equipment manufacturer, repair or refur-
14 bishment and subsequent reuse, or replace-
15 ment;

16 “(ii) the original equipment manufac-
17 turer has a presence and assets in the
18 United States; and

19 “(iii) the person who exports the cov-
20 ered electronic equipment—

21 “(I) keeps copies of normal busi-
22 ness records, such as contracts, dem-
23 onstrating that each shipment of ex-
24 ported covered electronic equipment is
25 intended for repair or refurbishment

1 and subsequent reuse, or replacement,
2 which documentation shall be retained
3 for a period of at least 3 years after
4 the date of export; and

5 “(II) submits an annual report to
6 the Administrator on the amount and
7 types of waste resulting from the re-
8 furbishment or replacement process,
9 and how it was disposed of or recy-
10 cled, which shall include—

11 “(aa) number and weight of
12 units of products returned by the
13 original equipment manufacturer
14 for repair, refurbishment, or re-
15 placement listed by category and
16 country of destination; and

17 “(bb) the covered electronic
18 equipment, or materials derived
19 therefrom, sent onward to fur-
20 ther reuse, disposal, or recycling
21 following repair, refurbishment,
22 or replacement, listed by weight,
23 a description of the wastes, and
24 the ultimate country destination.

25 “(B) ACKNOWLEDGMENT OF CONSENT.—

1 “(i) REQUIREMENT.—No person shall
2 export covered electronic equipment to a
3 country described in subsection (e) under
4 the exceptions to restricted electronic waste
5 in subsections (b)(3)(B)(iv) or (v) until the
6 Administrator—

7 “(I) obtains the written consent
8 of the competent authority of the re-
9 ceiving country, and of each country
10 through which the covered electronic
11 equipment will pass in transit; and

12 “(II) transmits to the exporter
13 an Acknowledgment of Consent re-
14 flecting receipt of each country’s con-
15 sent.

16 “(ii) COUNTRY NOTIFICATION.—In co-
17 operation with other appropriate agencies,
18 the Administrator shall provide notification
19 in writing of an intended export submitted
20 under subsection (f) to the receiving coun-
21 try and any transit countries.

22 “(iii) CONSENT AND EXPORTER NOTI-
23 FICATION.—When the receiving country
24 and all transit countries consent in writing
25 to the receipt or transit of the covered elec-

1 tronic equipment, the Administrator shall
2 transmit an Acknowledgment of Consent to
3 the exporter. The consent from a receiving
4 or transit country may be for a notice of
5 multiple shipments or a specified duration
6 as described in subsection (f). The exporter
7 shall attach a copy of the Acknowledgment
8 of Consent to the shipping papers or equiv-
9 alent documents to ensure that the Ac-
10 nowledgment of Consent accompanies the
11 shipment of covered electronic equipment.

12 “(C) WITHDRAWAL OF CONSENT.—Where
13 the receiving country or a transit country ob-
14 jects to receipt or transit of the covered elec-
15 tronic equipment, or withdraws a prior consent,
16 the Administrator shall notify the exporter in
17 writing.

18 “(2) REUSE.—No person shall export covered
19 electronic equipment to a country described in sub-
20 section (e) under the exception to restricted elec-
21 tronic waste in subsection (b)(3)(B)(ii) unless such
22 covered electronic equipment is accompanied by doc-
23 umentation that is available for review, including—

24 “(A) documentation of licensing of the ex-
25 porter under subsection (g); and

1 “(B) a declaration signed by an officer or
2 designated representative of the exporter assert-
3 ing that such equipment—

4 “(i) was tested, pursuant to sub-
5 section (i)(1), after it was removed from
6 service, or after it was repaired or refur-
7 bished, and is functional in accordance
8 with the requirements of subsection
9 (b)(3)(B)(ii); and

10 “(ii) is being exported for the purpose
11 of direct reuse, and not for recycling or
12 final disposal.

13 “(3) DE MINIMIS EXPORTS.—No person shall
14 export covered electronic equipment described in
15 subsection (b)(3)(B)(i) unless such equipment is ac-
16 companied by documentation of licensing of the ex-
17 porter under subsection (g).

18 “(4) CERTAIN TRANSACTIONS.—In the case of
19 a routed export transaction of covered electronic
20 equipment under the exceptions to restricted elec-
21 tronic waste in subsection (b)(3)(B) where the ex-
22 porter of record is a Foreign Principle Party in In-
23 terest (FFPI), then the U.S. Principle Party in In-
24 terest (USPPI) is responsible for compliance with

1 the requirements of this section, including the licens-
2 ing requirements under subsection (g).

3 “(i) REGULATIONS.—Not later than 18 months after
4 the date of enactment of this section, the Administrator
5 shall issue regulations for carrying out this section, includ-
6 ing the following:

7 “(1) Testing requirements for covered electronic
8 equipment proposed to be exported pursuant to the
9 exception to restricted electronic waste in subsection
10 (b)(3)(B)(ii).

11 “(2) Establishing a process for licensing entities
12 under subsection (g), including requirements that
13 entities proposing to export covered electronic equip-
14 ment under the exceptions to restricted electronic
15 waste in subsection (b)(3)(B) must meet to obtain a
16 license, including documentation that—

17 “(A) the exporter has an adequate physical
18 presence in the United States, as determined by
19 the Administrator, in order to be able to phys-
20 ically manage the equipment being exported;
21 and

22 “(B) with respect to covered electronic
23 equipment that is being exported for reuse pur-
24 suant to the exception to restricted electronic
25 waste in subsection (b)(3)(B)(ii), the exporter

1 has procedures and controls in place to ensure
2 that adequate testing, pursuant to paragraph
3 (1), will occur to determine the functionality of
4 such equipment, in accordance with the require-
5 ments of such subsection (b)(3)(B)(ii).

6 “(3) In consultation with the appropriate Fed-
7 eral agency or agencies, provisions for an efficient
8 export control regime which will allow for—

9 “(A) requiring a person exporting under
10 this section to use appropriate labeling or
11 marking, distinguishing among—

12 “(i) covered electronic equipment as
13 permitted under this section;

14 “(ii) restricted electronic waste de-
15 scribed in this section; and

16 “(iii) tested working covered electronic
17 equipment as permitted under this section;
18 and

19 “(B) enforcement mechanisms, tests, and
20 procedures in coordination with enforcement
21 procedures administered by other appropriate
22 Federal agencies, including—

23 “(i) procedures to ensure that exports
24 of covered electronic equipment under the
25 exception to restricted electronic waste in

1 subsection (b)(3)(B)(ii) without proper
 2 documentation required under subsection
 3 (h)(2) shall not proceed out of the port;
 4 and

5 “(ii) procedures whereby entities who
 6 obtain a license for export under sub-
 7 section (g) will forfeit such license for vio-
 8 lation of this section.

9 “(4) Establishing a registry of violators, where-
 10 by any person or entity found to be exporting re-
 11 stricted electronic waste in violation of this section
 12 shall be listed on a public registry on a website
 13 maintained by the Administrator for a period of 5
 14 years after each violation.”.

15 (b) TABLE OF CONTENTS AMENDMENT.—The table
 16 of contents for the Solid Waste Disposal Act is amended
 17 by adding after the item relating to section 3024 the fol-
 18 lowing new item:

“Sec 3025. Electronic waste export restrictions.”.

19 **SEC. 3. ENFORCEMENT.**

20 (a) CRIMINAL PENALTIES.—Section 3008(d) of the
 21 Solid Waste Disposal Act (42 U.S.C. 6928(d)) is amend-
 22 ed—

23 (1) by striking “or” at the end of paragraph
 24 (6);

1 (2) by inserting “or” at the end of paragraph
 2 (7)(B); and

3 (3) by inserting after paragraph (7) the fol-
 4 lowing new paragraph:

5 “(8) knowingly exports restricted electronic
 6 waste in violation of section 3025;”.

7 (b) INSPECTIONS.—Section 3007(a) of the Solid
 8 Waste Disposal Act (42 U.S.C. 6927(a)) is amended—

9 (1) by inserting “or restricted electronic
 10 wastes” after “or has handled hazardous wastes”;
 11 and

12 (2) by inserting “or restricted electronic
 13 wastes” after “or other place where hazardous
 14 wastes”.

15 **SEC. 4. CRITICAL MINERALS AND RARE EARTH ELEMENTS**

16 **RECYCLING RESEARCH.**

17 (a) DEFINITIONS.—In this section:

18 (1) ADMINISTRATOR.—The term “Adminis-
 19 trator” means the Administrator of the Environ-
 20 mental Protection Agency.

21 (2) CRITICAL MINERALS.—The term “critical
 22 mineral” means any of the following chemical ele-
 23 ments in any physical form or chemical combination:

24 (A) Antimony.

25 (B) Beryllium.

- 1 (C) Cobalt.
- 2 (D) Fluorspar.
- 3 (E) Gallium.
- 4 (F) Germanium.
- 5 (G) Graphite.
- 6 (H) Indium.
- 7 (I) Magnesium.
- 8 (J) Niobium.
- 9 (K) Platinum group metals (PGMs).
- 10 (L) Tantalum.
- 11 (M) Tungsten.
- 12 (N) Other elements identified by the Sec-
- 13 retary as in critical supply.
- 14 (3) RARE EARTH ELEMENTS.—The term “rare
- 15 earth element” means any of the following chemical
- 16 elements in any physical form or chemical combina-
- 17 tion:
- 18 (A) Scandium.
- 19 (B) Yttrium.
- 20 (C) Lanthanum.
- 21 (D) Cerium.
- 22 (E) Praseodymium.
- 23 (F) Neodymium.
- 24 (G) Promethium.
- 25 (H) Samarium.

1 (I) Europium.

2 (J) Gadolinium.

3 (K) Terbium.

4 (L) Dysprosium.

5 (M) Holmium.

6 (N) Erbium.

7 (O) Thulium.

8 (P) Ytterbium.

9 (Q) Lutetium.

10 (4) SECRETARY.—The term “Secretary” means
11 the Secretary of Energy.

12 (b) RESEARCH ON CRITICAL MINERALS AND RARE
13 EARTH ELEMENTS IN ELECTRONIC DEVICES.—The Sec-
14 retary, in consultation with the Administrator and the
15 heads of other appropriate Federal agencies, shall assist
16 in, and coordinate the development of, research in the re-
17 covering and recycling of critical minerals and rare earth
18 elements found in electronic devices.

19 (c) GRANTS.—Not later than 120 days after the date
20 of enactment of this Act, the Secretary shall establish a
21 competitive research application program under which the
22 Secretary shall provide grants to applicants to conduct re-
23 search on one or more of the following activities:

1 (1) The safe removal, separation, and recycling
2 of critical minerals and rare earth elements from
3 electronics.

4 (2) Technology, component, and material design
5 of electronics more suitable for disassembly and re-
6 cycling of critical minerals and rare earth elements.

7 (3) Collection, logistics, and reverse supply
8 chain optimization as related to recycling critical
9 minerals and rare earth elements from electronics.

10 (d) GRANT REQUIREMENTS.—The Secretary shall
11 issue requirements for applying for grants under sub-
12 section (c).

○