

114TH CONGRESS
2D SESSION

H. R. 5579

To control the export of electronic waste in order to ensure that such waste does not become the source of counterfeit goods that may reenter military and civilian electronics supply chains in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2016

Mr. COOK (for himself and Mr. GENE GREEN of Texas) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To control the export of electronic waste in order to ensure that such waste does not become the source of counterfeit goods that may reenter military and civilian electronics supply chains in the United States, 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 “Secure E-Waste Ex-
5 port and Recycling Act”.

6 **SEC. 2. EXPORT CONTROLS ON ELECTRONIC WASTE.**

7 (a) DEFINITIONS.—In this section:

1 (1) ELECTRONIC WASTE.—

2 (A) IN GENERAL.—The term “electronic
3 waste” means any of the following used items
4 containing electronic components, or fragments
5 thereof, including parts or subcomponents of
6 such items:

7 (i) Computers and related equipment.

8 (ii) Data center equipment (including
9 servers, network equipment, firewalls, bat-
10 tery backup systems, and power distribu-
11 tion units).

12 (iii) Mobile computers (including note-
13 books, netbooks, tablets, and e-book read-
14 ers).

15 (iv) Televisions (including portable
16 televisions and portable DVD players).

17 (v) Video display devices (including
18 monitors, digital picture frames, and port-
19 able video devices).

20 (vi) Digital imaging devices (including
21 printers, copiers, facsimile machines, image
22 scanners, and multifunction machines).

23 (vii) Consumer electronics—

24 (I) including digital cameras,
25 projectors, digital audio players, cel-

1 lular phones and wireless Internet
 2 communication devices, audio equip-
 3 ment, video cassette recorders, DVD
 4 players, video game systems (includ-
 5 ing portable systems), video game
 6 controllers, signal converter boxes,
 7 and cable and satellite receivers; and

8 (II) not including appliances that
 9 have electronic features.

10 (viii) Portable global positioning sys-
 11 tem navigation devices.

12 (ix) Other used electronic items that
 13 the Secretary determines to be necessary
 14 to carry out this section.

15 (B) EXEMPT ITEMS.—The term “electronic
 16 waste” does not include—

17 (i) exempted electronic waste items; or
 18 (ii) electronic parts of a motor vehicle.

19 (2) EXEMPTED ELECTRONIC WASTE ITEMS.—

20 (A) IN GENERAL.—The term “exempted
 21 electronic waste items” means the following:

22 (i) Tested, working used electronics.
 23 (ii) Low-risk counterfeit electronics.
 24 (iii) Recalled electronics.

25 (B) DEFINITIONS.—In this paragraph:

1 (i) TESTED, WORKING USED ELEC-
2 TRONICS.—The term “tested, working used
3 electronics” means any used electronic
4 items that—

5 (I) are determined, through test-
6 ing methodologies established by the
7 Secretary, to be fully functional for
8 the purpose for which the items were
9 designed, or, in the case of multi-
10 function devices, fully functional for
11 at least one of the primary purposes
12 for which the items were designed;

13 (II) are exported with the intent
14 to reuse the products as functional
15 products; and

16 (III) are appropriately packaged
17 for shipment to prevent the items
18 from losing functionality due to dam-
19 age during shipment.

20 (ii) LOW-RISK COUNTERFEIT ELEC-
21 TRONICS.—The term “low-risk counterfeit
22 electronics” means any electronic compo-
23 nents or items that—

24 (I) have been subjected to de-
25 struction processes that render the

1 items unusable for their original pur-
2 pose; and

3 (II) are exported as a feedstock,
4 with no additional mechanical or hand
5 separation required, in a reclamation
6 process to render the electronic com-
7 ponents or items recycled consistent
8 with the laws of the foreign country
9 performing the reclamation process.

10 (iii) The term “recalled electronics”
11 means any electronic items that—

12 (I) because of a defect in the de-
13 sign or manufacture of the items—

14 (aa) are subject to a recall
15 notice issued by the Consumer
16 Product Safety Commission or
17 other pertinent Federal authority
18 and have been received by the
19 manufacturer or its agent and re-
20 paired by the manufacturer or its
21 agent to cure the defect; or

22 (bb) have been recalled by
23 the manufacturer as a condition
24 of the validity of the warranty on
25 the items and have been repaired

1 by the manufacturer or its agent
2 to cure the defect; and

3 (II) are exported by the manufac-
4 turer of the items.

5 (iv) The term “feedstock” means any
6 raw material constituting the principal
7 input for an industrial process.

8 (3) COUNTERFEIT GOOD.—The term “counter-
9 feit good” means any good on which, or in connec-
10 tion with which, a counterfeit mark is used.

11 (4) COUNTERFEIT MILITARY GOOD.—The term
12 “counterfeit military good” means a good that uses
13 a counterfeit mark on or in connection with such
14 good and that—

15 (A) is falsely identified or labeled as meet-
16 ing military specifications; or

17 (B) is intended for use in a military or na-
18 tional security application.

19 (5) COUNTERFEIT MARK.—The term “counter-
20 feit mark” has the meaning given that term in sec-
21 tion 2320 of title 18, United States Code.

22 (6) EXPORT ADMINISTRATION REGULATIONS.—
23 The term “Export Administration Regulations”
24 means the regulations set forth in subchapter C of

1 chapter VII of title 15, Code of Federal Regulations,
2 or successor regulations.

3 (7) EXPORT; REEXPORT.—The terms “export”
4 and “reexport” mean “export” and “reexport” with-
5 in the meaning of the Export Administration Act of
6 1979 (50 U.S.C. App. 2401 et seq.), as in effect
7 pursuant to the International Emergency Economic
8 Powers Act (50 U.S.C. 1701 et seq.).

9 (8) SECRETARY.—The term “Secretary” means
10 the Secretary of Commerce.

11 (9) USED.—A product is “used” if it has been
12 operated or employed.

13 (b) PROHIBITION.—Except as provided in subsections
14 (c) and (d), no person or entity may export or reexport
15 electronic waste or exempted electronic waste items.

16 (c) EXPORT PROHIBITION EXEMPTIONS.—A person
17 or entity may export or reexport exempted electronic waste
18 items, but only if the following requirements are met:

19 (1) REGISTRATION.—The person or entity is
20 listed on a publicly available registry maintained by
21 the Secretary.

22 (2) FILING OF EXPORT INFORMATION.—For
23 each export transaction, the person or entity files in
24 the Automated Export System, in accordance with
25 part 758 of the Export Administration Regulations,

1 Electronic Export Information that contains at least
2 the following information:

3 (A) A description of the type and total
4 quantity of exempted electronic waste items ex-
5 ported.

6 (B) The name of each country that re-
7 ceived the exempted electronic waste items for
8 reuse or recycling.

9 (C)(i) The name of the ultimate consignee
10 to which the exempted electronic waste items
11 were received for reclamation, recall, or reuse;
12 and

13 (ii) documentation and a declaration that
14 such consignee has the necessary permits, re-
15 sources, and competence to manage the exempt-
16 ed electronic waste items as reusable products
17 or recyclable feedstock and prevent its release
18 as a counterfeit good or counterfeit military
19 good.

20 (3) COMPLIANCE WITH EXISTING EXPORT
21 LAWS.—The export or reexport of exempted elec-
22 tronic waste items otherwise comply with applicable
23 international agreements to which the United States
24 is a party and with other trade laws of the United
25 States.

1 (4) EXPORT DECLARATIONS AND REQUIRE-
2 MENTS.—The exempted electronic waste items are
3 accompanied by—

4 (A) documentation of the registration of
5 the exporter required under paragraph (1);

6 (B) a declaration signed by an officer or
7 designated representative of the exporter assert-
8 ing that the exempted electronic waste items
9 meet the applicable requirements for exempted
10 electronic waste items under this section;

11 (C) a description of the contents and con-
12 dition of the exempted electronic waste items in
13 the shipment;

14 (D) for tested, working electronic equip-
15 ment, a description of the testing methodologies
16 and test results for each item;

17 (E) the name of the ultimate consignee
18 and declaration of the consignee's applicable
19 permits, resources, and competence to process
20 or use the equipment as intended; and

21 (F) with respect to low-risk counterfeit
22 electronics only and when required by the im-
23 porting country, the written consent of the com-
24 petent authority of the receiving country to
25 allow the products in such country.

1 (d) OTHER EXCEPTIONS.—The Secretary may pro-
2 vide for such exceptions to the requirements of this section
3 for—

4 (1) exports or reexports of 5 items or fewer per
5 transaction of electronic components, or items con-
6 taining electronic components, that are intended for
7 personal use, and

8 (2) exports or reexports of electronic compo-
9 nents, or items containing electronic components,
10 that are made to a person or entity under the own-
11 ership or control of the person or entity exporting or
12 reexporting the components or items,

13 subject to such recordkeeping requirements as the Sec-
14 retary may impose, but only if the components or items
15 are exported or reexported (as the case may be) with the
16 intent that they be used for the purpose for which the
17 components or items (as the case may be) were used in
18 the United States.

19 (e) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Subject to paragraph (2),
21 this section shall take effect upon the expiration of
22 the 1-year period beginning on the date of the enact-
23 ment of this Act.

24 (2) MODIFICATION OF EAR.—The Secretary
25 shall, not later than the effective date under para-

1 graph (1), ensure that the Export Administration
2 Regulations are modified to carry out this section.

3 (f) PENALTIES FOR VIOLATIONS.—Any person who
4 violates this section or the regulations issued under sub-
5 section (e)(2) shall be subject to the same penalties as
6 those that apply to any person violating any other provi-
7 sion of the Export Administration Regulations.

○