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112TH CONGRESS
1ST SESSION

H. R. 2284

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2011

Mr. GENE GREEN of Texas (for himself, Mr. THOMPSON of California, Mr. LATOURETTE, and Mr. TERRY) 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

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Responsible Electronics Recycling Act''.

SEC. 2. ELECTRONIC WASTE EXPORT RESTRICTIONS.

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

"SEC. 3024. ELECTRONIC WASTE EXPORT RESTRICTIONS.

"(a) IN GENERAL.—Beginning on the date that is 24 months after the date of enactment of this section, no person shall export restricted electronic waste to a country described in subsection (e).

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

"(1) CONSIGNEE.—The term 'consignee' means the ultimate repair, refurbishment, treatment, storage, or disposal facility in a receiving country to which restricted electronic waste will be sent.

"(2) COVERED ELECTRONIC EQUIPMENT.—

"(A) IN GENERAL.—The term 'covered electronic equipment' means the following used items, whole or in fragments, including parts, components, or assemblies thereof:

"(i) Computers.

"(ii) Central processing units.

"(iii) Mobile computers (including notebooks, netbooks, tablets, and e-book readers).

"(iv) Computer accessories (including input devices, webcams, speakers, data storage devices, servers, and monitors).

"(v) Televisions (including portable televisions and portable DVD players).

"(vi) Video display devices (including digital picture frames and portable video devices).

"(vii) Digital imaging devices (including printers, copiers, facsimile machines, image scanners, and multifunction machines).

"(viii) Television peripheral devices (including video cassette recorders, DVD players, video game systems, game controllers, signal converter boxes, and cable and satellite receivers).

"(ix) Digital cameras and projectors.

"(x) Digital audio players.

"(xi) Telephones and electronic communication equipment (including cellular phones and wireless Internet communication devices).

"(xii) Networking devices (including routers, network cards, modems, and hubs).

"(xiii) Audio equipment.

"(xiv) Portable video game systems.

"(xv) Personal digital assistants.

"(xvi) Portable global positioning system navigation devices.

"(xvii) Other used electronic products the Administrator determines to be similar under the procedures promulgated in accordance with subsection (c).

"(B) EXCEPTION.—The term 'covered electronic equipment' shall not include parts of a motor vehicle.

"(3) RESTRICTED ELECTRONIC WASTE.—

"(A) IN GENERAL.—The term 'restricted electronic waste' means—

"(i) items of covered electronic equipment, that include, contain, are derived from, or consist of—

"(I) cathode ray tubes or cathode ray tube glass in any form, or cathode ray tube phosphor residues or dusts in any form;

"(II) a lamp or other device containing mercury phosphor;

"(III) batteries containing—

"(aa) lead, cadmium, or mercury; or

"(bb) organic solvents exhibiting the characteristic of ignitability, as defined in section 261.21 of title 40, Code of Federal Regulations;

"(IV) switches or any other devices containing mercury;

"(V) hexavalent chromium;

"(VI) other than batteries described in subclause (III), items containing antimony, barium, cadmium, lead, thallium, beryllium, arsenic, or selenium, including—

"(aa) circuit boards;

"(bb) printer drums;

"(cc) liquid crystal displays;

"(dd) flatscreen glass; and

"(ee) light emitting diodes; or

"(ii) any other covered electronic equipment, or materials derived therefrom, containing any other toxic material, in elemental or compound form, identified by the Administrator under subsection (c).

"(B) EXCEPTIONS.—The term 'restricted electronic waste' shall not apply to items described in this subparagraph.

"(i) DE MINIMIS.—Covered electronic equipment described in subparagraphs (A)(i)(VI) and (A)(ii), including separated component streams (such as plastics or metals), which does not exceed de minimis levels set by the Administrator under subsection (d).

"(ii) REUSE.—Covered electronic equipment that is—

"(I) tested prior to export pursuant to subsection (i)(1), and found to be—

"(aa) functional for the purpose for which the equipment was designed, or, in the case of multifunction devices, fully functional for at least one of the pri-

mary purposes for which the equipment was designed; and

"(bb) appropriately packaged for shipment to prevent the equipment from losing functionality due to damage during transit; and

"(II) appropriately labeled or marked pursuant to subsection (i)(3)(A).

"(iii) CERTAIN CATHODE RAY TUBE GLASS.—Furnace-ready cathode ray tube glass cullet, cleaned of all phosphors, to be used as a direct feedstock in a lead-glass manufacturing furnace without further processing or preparation required other than quality control, which the competent authority in the importing country states in writing is not waste.

"(iv) WARRANTIES.—Customer returns, to point of sale, to original equipment manufacturers, or to contractual warranty collectors, of recently purchased covered electronic equipment that is either—

"(I) under original equipment manufacturer warranty to customers; or

"(II) 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 subparagraph shall not include—

"(aa) covered electronic equipment accepted for return from individuals or businesses under general takeback, recycling, trade-in (for purposes of recycling, disposal, sales promotions, or obtaining credit for

product purchases or leases) or buy-back programs, events, or policies designed to collect used or waste electronic equipment;

"(bb) covered electronic equipment returned at the end of leases to customers; or

"(cc) covered electronic equipment collected by asset recovery programs.

"(v) RECALLS.—Recalls of covered electronic equipment by an original equipment manufacturer, original design manufacturer, or original component manufacturer where—

"(I) the covered electronic equipment is subject to recall notice issued by the Consumer Product Safety Commission or other pertinent Federal authority;

"(II) the original design manufacturer or original component manufacturer requires the defective covered electronic equipment to be physically

returned to that manufacturer as a term of the warranty; and

"(III) any export of recalled covered electronic equipment is to a country from whose competent authority the Administrator receives written consent pursuant to subsection (h)(2).

"(4) RULE OF CONSTRUCTION REGARDING CHEMICAL ELEMENTS.—Any reference to a chemical element shall be construed to be a reference to that element in compound or elemental form.

"(c) ADDITIONAL COVERED ELECTRONIC EQUIPMENT AND RESTRICTED MATERIALS.—Not later than 18 months after the date of enactment of this section, the Administrator shall, after notice and opportunity for public comment, and after consultation with appropriate Federal and State agencies, develop and promulgate procedures for identifying—

"(1) similar electronic equipment to add to the list of covered electronic equipment under subsection (b)(2); and

"(2) additional restricted toxic materials to add to the list in subsection (b)(3)(A)(ii), the presence of

which in covered electronic equipment poses a potential hazard to human health or the environment.

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

"(d) DE MINIMIS LEVELS.—Not later than 18 months after the date of enactment of this section, the Administrator shall, after notice and opportunity for public comment, and after consultation with appropriate Federal and State agencies, develop and promulgate procedures for identifying de minimis levels for restricted electronic waste described in subparagraphs (A)(i)(VI) and (A)(ii) of subsection (b)(3), below which such waste is determined by the Administrator not to pose a potential hazard to human health or the environment.

"(e) COUNTRIES TO WHICH PROHIBITION APPLIES.—The countries referred to in subsection (a) are all countries which are not—

"(1) members of the Organization for Economic Co-operation and Development or the European Union; or

"(2) Liechtenstein.

"(f) NOTICE TO ADMINISTRATOR.—No person shall export covered electronic equipment described in subsection (b)(3)(B) to a country described in subsection (e)

unless, not later than 60 days before the initial export shipment, such person transmits to the Administrator written notice of an intended export. Such a notification may cover export activities extending over a maximum of 12 months for the same type of covered electronic equipment, exported to the same facility via the same transit countries. The notification shall include the following information:

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

"(2) Documentation of licensing of the exporter under subsection (g).

"(3) The name and site address of the consignee and any alternate consignee.

"(4) A statement from the exporter that includes—

"(A) a description of the type and total quantity of covered electronic equipment that will be exported to the consignee;

"(B) the estimated frequency or rate at which such covered electronic equipment is to be exported, and the period of time over which

such covered electronic equipment is to be exported;

"(C) all points of entry to and departure from each country through which the covered electronic equipment will pass in transit;

"(D) a description of the means by which each shipment of the covered electronic equipment will be transported, including the mode of transportation and type or types of container; and

"(E) a description of the manner in which the covered electronic equipment will be treated, stored, or disposed of in the receiving country.

"(5) A list of all transit countries through which the covered electronic equipment will be transported, and a description of the approximate length of time the covered electronic equipment will remain in each country and the nature of its handling while there.

"(g) LICENSE.—Covered electronic equipment may only be exported to a country described in subsection (e) under the exceptions to restricted electronic waste in subsection (b)(3)(B) by an entity licensed by the Administrator under regulations issued under subsection (i)(2).

"(h) ADDITIONAL EXPORT CONDITIONS FOR WARRANTIES AND RECALLS.—

"(1) IN GENERAL.—No person shall export covered electronic equipment to a country described in subsection (e) under the exceptions to restricted electronic waste in subsections (b)(3)(B) (iv) or (v) unless—

"(A) the export is made by an original equipment manufacturer or its contractual agent to the original design manufacturer or original component manufacturer's site of last assembly, or to a company contracted to make warranty repairs, for the purposes of business credit to the original equipment manufacturer, repair or refurbishment and subsequent reuse, or replacement;

"(B) the original equipment manufacturer has a presence and assets in the United States; and

"(C) the person who exports the covered electronic equipment—

"(i) keeps copies of normal business records, such as contracts, demonstrating that each shipment of exported covered electronic equipment is intended for repair

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

"(ii) submits an annual report to the Administrator on the amount and types of waste resulting from the refurbishment or replacement process, and how it was disposed of or recycled, which shall include—

"(I) number and weight of units of products returned by the original equipment manufacturer for repair, refurbishment, or replacement listed by category and country of destination; and

"(II) the covered electronic equipment, or materials derived therefrom, sent onward to further reuse, disposal, or recycling following repair, refurbishment, or replacement, listed by weight, a description of the wastes, and the ultimate country destination.

"(2) ACKNOWLEDGMENT OF CONSENT.—

"(A) REQUIREMENT.—No person shall export covered electronic equipment to a country

described in subsection (e) under the exceptions to restricted electronic waste in subsections (b)(3)(B) (iv) or (v) until the Administrator—

"(i) obtains the written consent of the competent authority of the receiving country, and of each country through which the covered electronic equipment will pass in transit; and

"(ii) transmits to the exporter an Acknowledgment of Consent reflecting receipt of each country's consent.

"(B) COUNTRY NOTIFICATION.—In cooperation with other appropriate agencies, the Administrator shall provide notification in writing of an intended export submitted under subsection (f) to the receiving country and any transit countries.

"(C) CONSENT AND EXPORTER NOTIFICATION.—When the receiving country and all transit countries consent in writing to the receipt or transit of the covered electronic equipment, the Administrator shall transmit an Acknowledgment of Consent to the exporter. The consent from a receiving or transit country may be for a notice of multiple shipments or a speci-

fied duration as described in subsection (f). The exporter shall attach a copy of the Acknowledgment of Consent to the shipping papers or equivalent documents to ensure that the Acknowledgment of Consent accompanies the shipment of covered electronic equipment.

"(3) WITHDRAWAL OF CONSENT.—Where the receiving country or a transit country objects to receipt or transit of the covered electronic equipment, or withdraws a prior consent, the Administrator shall notify the exporter in writing.

"(i) REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Administrator shall issue regulations for carrying out this section, including—

"(1) testing requirements for covered electronic equipment proposed to be exported under subsection (b)(3)(B)(ii);

"(2) establishing a process for licensing entities under subsection (g);

"(3) in consultation with the appropriate Federal agency or agencies, provisions for an efficient export control regime which will allow for—

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

"(i) covered electronic equipment as permitted under this section;

"(ii) restricted electronic waste described in this section; and

"(iii) tested working covered electronic equipment as permitted under this section; and

"(B) enforcement mechanisms, tests, and procedures in coordination with enforcement procedures administered by other appropriate Federal agencies; and

"(4) establishing a registry of violators, whereby any person or entity found to be exporting restricted electronic waste in violation of this section shall be listed on a public registry on a website maintained by the Administrator for a period of 5 years after each violation.

"(j) CIRCUIT BOARDS.—For the purposes of export to Organization for Economic Co-operation and Development member countries, circuit boards shall be subject to the Amber Control Procedure as described in the Organi-

zation for Economic Co-operation and Development Control System for waste recovery.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents for the Solid Waste Disposal Act is amended by adding after the item relating to section 3023 the following new item:

''Sec 3024. Electronic waste export restrictions.''.

SEC. 3. ENFORCEMENT.

(a) CRIMINAL PENALTIES.—Section 3008(d) of the Solid Waste Disposal Act (42 U.S.C. 6928(d)) is amended—

(1) by striking ''or'' at the end of paragraph (6);

(2) by inserting ''or'' at the end of paragraph (7)(B); and

(3) by inserting after paragraph (7) the following new paragraph:

''(8) knowingly exports restricted electronic waste in violation of section 3024;''.

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

(1) by inserting ''or restricted electronic wastes'' after ''or has handled hazardous wastes''; and

(2) by inserting ''or restricted electronic wastes'' after ''or other place where hazardous wastes''.

SEC. 4. RARE EARTH MATERIALS RECYCLING RESEARCH INITIATIVE.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) INITIATIVE.—The term ''Initiative'' means the Rare Earth Materials Recycling Research Initiative established under subsection (b).

(3) RARE EARTH MATERIAL.—The term ''rare earth material'' means any of the following chemical elements in any physical form or chemical combination:

(A) Scandium.

(B) Yttrium.

(C) Lanthanum.

(D) Cerium.

(E) Praseodymium.

(F) Neodymium.

(G) Promethium.

(H) Samarium.

(I) Europium.

(J) Gadolinium.

(K) Terbium.

(L) Dysprosium.

(M) Holmium.

(N) Erbium.

(O) Thulium.

(P) Ytterbium.

(Q) Lutetium.

(R) Other elements identified by the Secretary as rare or in critical supply.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator and the heads of other appropriate Federal agencies, shall establish the Rare Earth Materials Recycling Research Initiative to assist in and coordinate the development of research in the recycling of rare earth materials found in electronic devices.

(c) GRANTS.—Under the Initiative, the Secretary shall establish a competitive research application program under which the Secretary shall provide grants to applicants to conduct research on one or more of the following activities:

(1) The safe removal, separation, and recycling of rare earth material from electronics.

(2) Technology, component, and material design of electronics more suitable for disassembly and recycling of rare earth material.

(3) Collection, logistics, and reverse supply chain optimization as related to recycling rare earth materials from electronics.

(d) GRANT REQUIREMENTS.—The Secretary shall issue requirements for applying for grants under the Initiative.

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