

117TH CONGRESS
1ST SESSION

H. R. 3036

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

MAY 7, 2021

Mr. ESPAILLAT (for himself and Mr. STIVERS) 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) ELECTRONIC WASTE.—

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

(i) Computers and related equipment.

(ii) Data center equipment (including servers, network equipment, firewalls, battery backup systems, and power distribution units).

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

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

(v) Video display devices (including monitors, digital picture frames, and portable video devices).

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

(vii) Consumer electronics—

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

lular phones and wireless internet communication devices, audio equipment, video cassette recorders, DVD players, video game systems (including portable systems), video game controllers, signal converter boxes, and cable and satellite receivers; and

(II) not including appliances that have electronic features.

(viii) Portable global positioning system navigation devices.

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

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

(i) exempted electronic waste items;

(ii) electronic parts of a motor vehicle;

or

(iii) electronic components, or items containing electronic components, that are exported or reexported to an entity under the ownership or control of the person exporting or reexporting the components or items, with the intent that the components

1 or items be used for the purpose for which
2 the components or items were used in the
3 United States.

4 (2) EXEMPTED ELECTRONIC WASTE ITEMS.—

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

7 (i) Tested, working used electronics.

8 (ii) Low-risk counterfeit electronics.

9 (iii) Recalled electronics.

10 (B) DEFINITIONS.—In this paragraph:

11 (i) TESTED, WORKING USED ELEC-
12 TRONICS.—The term “tested, working used
13 electronics” means any used electronic
14 items that—

15 (I) are determined, through test-
16 ing methodologies established by the
17 Secretary, to be—

18 (aa) fully functional for the
19 purpose for which the items were
20 designed; or

21 (bb) in the case of multi-
22 function devices, fully functional
23 for at least one of the primary
24 purposes for which the items
25 were designed;

1 (II) are exported with the intent
2 to reuse the products as functional
3 products; and

4 (III) are appropriately packaged
5 for shipment to prevent the items
6 from losing functionality as a result of
7 damage during shipment.

8 (ii) LOW-RISK COUNTERFEIT ELEC-
9 TRONICS.—The term “low-risk counterfeit
10 electronics” means any electronic compo-
11 nents or items that—

12 (I) have been subjected to de-
13 struction processes that render the
14 items unusable for their original pur-
15 pose; and

16 (II) are exported as a feedstock,
17 with no additional mechanical or hand
18 separation required, in a reclamation
19 process to render the electronic com-
20 ponents or items recycled consistent
21 with the laws of the foreign country
22 performing the reclamation process.

23 (iii) RECALLED ELECTRONICS.—The
24 term “recalled electronics” means any elec-
25 tronic items that—

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

3 (aa) are subject to a recall
4 notice issued by the Consumer
5 Product Safety Commission or
6 other pertinent Federal authority
7 and have been received by the
8 manufacturer or its agent and re-
9 paired by the manufacturer or its
10 agent to cure the defect; or

11 (bb) have been recalled by
12 the manufacturer as a condition
13 of the validity of the warranty on
14 the items and have been repaired
15 by the manufacturer or its agent
16 to cure the defect; and

17 (II) are exported by the manufac-
18 turer of the items.

19 (iv) FEEDSTOCK.—The term “feed-
20 stock” means any raw material consti-
21 tuting the principal input for an industrial
22 process.

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

1 (4) COUNTERFEIT MILITARY GOOD.—The term
2 “counterfeit military good” means a counterfeit good
3 that—

4 (A) is falsely identified or labeled as meet-
5 ing military specifications; or

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

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

11 (6) EXPORT ADMINISTRATION REGULATIONS.—
12 The term “Export Administration Regulations”
13 means the regulations set forth in subchapter C of
14 chapter VII of title 15, Code of Federal Regulations,
15 or successor regulations.

16 (7) EXPORT; REEXPORT.—The terms “export”
17 and “reexport” have the meanings given such terms
18 in section 1742 of the Export Control Reform Act
19 of 2018 (50 U.S.C. 4801).

20 (8) SECRETARY.—The term “Secretary” means
21 the Secretary of Commerce.

22 (9) USED.—The term “used”, with respect to
23 an item, means the item has been operated or em-
24 ployed.

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

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

7 (1) REGISTRATION.—The person or entity is
8 listed on a publicly available registry maintained by
9 the Secretary.

10 (2) FILING OF EXPORT INFORMATION.—For
11 each export transaction, the person or entity files in
12 the Automated Export System, in accordance with
13 part 758 of the Export Administration Regulations
14 (or any corresponding similar regulation or ruling),
15 electronic export information that contains at least
16 the following information:

17 (A) A description of the type and total
18 quantity of exempted electronic waste items ex-
19 ported.

20 (B) The name of each country that re-
21 ceived the exempted electronic waste items for
22 reuse or recycling.

23 (C)(i) The name of the ultimate consignee
24 to which the exempted electronic waste items

1 were received for reclamation, recall, or reuse;
2 and

3 (ii) documentation and a declaration that
4 such consignee has the necessary permits, re-
5 sources, and competence to manage the exempt-
6 ed electronic waste items as reusable products
7 or recyclable feedstock and prevent its release
8 as a counterfeit good or counterfeit military
9 good.

10 (3) COMPLIANCE WITH EXISTING LAWS.—The
11 export or reexport of exempted electronic waste
12 items otherwise comply with applicable international
13 agreements to which the United States is a party
14 and with other trade and export control laws of the
15 United States.

16 (4) EXPORT DECLARATIONS AND REQUIRE-
17 MENTS.—The exempted electronic waste items are
18 accompanied by—

19 (A) documentation of the registration of
20 the exporter required under paragraph (1);

21 (B) a declaration signed by an officer or
22 designated representative of the exporter assert-
23 ing that the exempted electronic waste items
24 meet the applicable requirements for exempted
25 electronic waste items under this section;

1 (C) a description of the contents and con-
2 dition of the exempted electronic waste items in
3 the shipment;

4 (D) for tested, working electronics, a de-
5 scription of the testing methodologies and test
6 results for each item;

7 (E) the name of the ultimate consignee
8 and declaration of the consignee's applicable
9 permits, resources, and competence to process
10 or use the items as intended; and

11 (F) with respect to low-risk counterfeit
12 electronics only and when required by the im-
13 porting country, the written consent of the com-
14 petent authority of the receiving country to
15 allow the products in such country.

16 (d) EXCEPTION FOR PERSONAL USE.—The Sec-
17 retary may provide for an exception to the requirements
18 of this section, subject to such recordkeeping requirements
19 as the Secretary may impose, for the export or reexport
20 of 5 or fewer items that are or contain electronic compo-
21 nents intended for personal use.

22 (e) EFFECTIVE DATE.—

23 (1) IN GENERAL.—Subject to paragraph (2),
24 this section shall take effect upon the expiration of

1 the 1-year period beginning on the date of the enact-
2 ment of this Act.

3 (2) MODIFICATION OF EAR.—The Secretary
4 shall, not later than the effective date under para-
5 graph (1), ensure that the Export Administration
6 Regulations are modified to carry out this section.

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

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