

OVERVIEW

The Secure E-Waste Export and Recycling Act (SEERA) *Combating China's Microchip Counterfeiters to Protect National Security and Critical Infrastructure*

The Secure E-Waste Export and Recycling Act (SEERA – HR 3559) is a bill to control the export of electronic waste (e-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.

Why is this bill important? Counterfeit microchips, primarily from China, threaten the reliability of a wide range of technology essential to daily life – and our national security. Experts say fake electronic components can be found in everything from the airbags in our cars to our critical domestic infrastructure and even our military hardware. A Senate Armed Services Committee study determined that counterfeit chips are pervasive in fighter jets, missile guidance systems, submarines, helicopters and more, concluding “there is no way to predict how well they will perform, how long they will last, and the full impact of failure.”

Counterfeiters often start by stripping used microchips from e-waste – much of it legally exported from the United States. Counterfeiters rely on our exports because the U.S. is the world's largest producer of e-waste and one of the few countries that allow unrestricted exports of untested, nonworking e-scrap. SEERA combats counterfeiters by requiring domestic recycling of untested, nonworking e-waste. By processing and securing e-scrap here, we will keep it out of the hands of counterfeiters in China and around the world.

What this bill does: Amends existing export administration regulations by designating non-working/non-tested used electronic items (based on a list of common electronic products or fragments of products that contain circuitry) as “Electronic Waste” which cannot be exported outside of the U.S. unless certain specific conditions are met.

Electronic products outside the scope of this bill (which are not controlled for export in any way) include:

- New electronic items sold for use in commerce.
- Electronics exported for personal use (5 or fewer items exported per transaction)
- Electronics exported by an entity in the U.S. to another foreign location under the same ownership, as long as the equipment is going to be used the same way. If a company has an office in the U.S. and wants to ship its office computers to one of its foreign offices, that's allowed. The exemption does not allow for brokers to set up shell organizations in the U.S. to allow them to ship products outside the U.S. to another owned location for later resale.

Electronic items (and fragments) that can be exported are designated as “**Exempted Electronic Waste Items.**” These include the following items:

- Tested, working used electronics exported with the intent for reuse and packaged to preserve their function;

About Us

The Coalition for American Electronics Recycling (CAER) is the leading voice on Capitol Hill for the emerging electronics recycling industry. CAER includes more than 130 companies with over 300 facilities in 35 states, the District of Columbia and Puerto Rico.

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- Low-risk counterfeit electronics which have been destroyed (shredded, demanufactured, etc.) and which are exported as a direct feedstock to a recycling facility (smelter, plastics regrind operation, etc.); or
- Recalled electronics sold in the U.S. that are exported by the manufacturer of the product in order to cure the defect.

Why can these items be exported? There is no ability to generate counterfeit electronics from shredded electronics going to a proper recycler and there is very little economic incentive to harvest parts for counterfeiting from items exported for reuse or recovered as part of a recall.

In order for a person or entity to export Exempted Electronic Waste Items, it must be:

- Registered with the Secretary of Commerce and listed on a publicly available registry

This registration allows watchdogs to better track the export of potential counterfeit products and reduces the opportunity for exporters to hide these transactions.

Every time a Registered Exporter initiates a transaction to ship exempted electronic waste, the organization or individual must:

- Report to the Automated Export System information on the:
 - Type and total quantity of exempted electronic waste items exported;
 - The name of each country that received the items for reuse or recycling;
 - The name of the ultimate consignee that will reclaim, recall or reuse the items (not the broker of the material);
 - A declaration that the consignee has the necessary permits, resources and competence to manage the items as a reusable product or recyclable feedstock which will prevent its release as a counterfeit product
- Comply with existing export laws (there are a number of other requirements related to the export of sensitive information technology or waste materials)
- Include with the shipment, the following documentation:
 - Proof of registration with the Secretary of Commerce
 - A declaration signed by an officer or designated representative that asserts the exempted electronic waste items meet all applicable requirements of the bill;
 - A description of the contents and condition of the items in the shipment;
 - For tested, working items, a description of the testing methodologies and test results of each item;
 - The name of the ultimate consignee and a declaration that it has the applicable permits, resources, and competence to process the items as intended;
 - For low-risk counterfeit electronics (like shredded circuit boards), the written consent of the competent authority to receive the products.

These reporting and declaration requirements support better traceability of electronic products to discourage counterfeiting. In addition, if Customs and Border Protection inspect a shipment of electronic products intended for export, they will now have the power to stop the shipment and hold the shipper accountable.

When would these requirements take effect? One year after the bill passes, all exports of exempted electronic waste will need to meet these requirements.

What if an individual or entity breaks the law? The Export Control Reform Act of 2018 already contains provisions to enforce violations, which include criminal and civil penalties including fines and prison.