

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2715
OFFERED BY M . _____**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Destruction of Haz-
3 arduous Imports Act”.

4 SEC. 2. DESTRUCTION OF CERTAIN REFUSED ARTICLES.

5 (a) IN GENERAL.—Section 801 of the Federal Food,
6 Drug, and Cosmetic Act (21 U.S.C. 381) is amended by
7 adding at the end the following:

8 “(v) DESTRUCTION OF REFUSED ARTICLES PRE-
9 SENTING SIGNIFICANT PUBLIC HEALTH CONCERNS.—

10 “(1) IN GENERAL.—If the Secretary of Health
11 and Human Services finds that an article that has
12 been refused admission under subsection (a) pre-
13 sents a significant public health concern, the Sec-
14 retary may issue to the owner or consignee of the
15 article an order to destroy the article, without the
16 opportunity for export.

17 “(2) DEADLINE; COSTS.—Not later than 90
18 days after the issuance of an order under paragraph

1 (1), the owner or consignee of the article shall de-
2 stroy the article. The owner or consignee shall be re-
3 sponsible for the costs of such destruction.

4 “(3) DUE PROCESS.—The Secretary of Health
5 and Human Services shall provide to the owner or
6 consignee of an article subject to an order under
7 paragraph (1) appropriate due process prior to the
8 destruction of the article. Such due process shall be
9 specified in regulations and include notice and an
10 opportunity to appear before the Secretary and in-
11 troduce testimony on the destruction—

12 “(A) in combination with the notice and
13 opportunity to appear and introduce testimony
14 on the refusal of admission of the article under
15 subsection (a); or

16 “(B) separately.”.

17 (b) PROHIBITED ACTS.—Section 301 of the Federal
18 Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amend-
19 ed by adding at the end the following:

20 “(jjj) The unauthorized movement, or introduction or
21 delivery for introduction into interstate commerce, includ-
22 ing export, of an article that is subject to an order for
23 destruction under section 801(v).”.

24 (c) APPLICABILITY.—The amendments made by sub-
25 sections (a) and (b) shall apply to articles beginning on

1 the date that is 30 days after the date on which the Sec-
2 retary of Health and Human Services, acting through the
3 Commissioner of Food and Drugs, promulgates final regu-
4 lations under subsection (d).

5 (d) REGULATIONS.—

6 (1) PROPOSED.—Not later than 18 months
7 after the date of enactment of this Act, the Sec-
8 retary of Health and Human Services, acting
9 through the Commissioner of Food and Drugs, shall
10 issue proposed regulations to implement the amend-
11 ment made by subsection (a), allowing for notice and
12 comment on such proposed regulations.

13 (2) FINAL.—Not later than 1 year after the
14 issuance of the proposed regulations under para-
15 graph (1), the Secretary of Health and Human
16 Services, acting through the Commissioner of Food
17 and Drugs, shall promulgate final regulations to im-
18 plement the amendment made by subsection (a).

