

116TH CONGRESS
1ST SESSION

H. R. 104

To repeal certain amendments to the Clean Air Act relating to the expansion of the renewable fuel program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. BURGESS introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To repeal certain amendments to the Clean Air Act relating to the expansion of the renewable fuel program, 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 “Leave Ethanol Vol-
5 umes at Existing Levels Act” or the “LEVEL Act”.

6 **SEC. 2. REPEAL OF EXPANSION OF RENEWABLE FUEL PRO-**
7 **GRAM.**

8 (a) DEFINITIONS.—Section 211(o)(1) of the Clean
9 Air Act (42 U.S.C. 7545(o)(1)) is amended to read as fol-
10 lows:

1 “(1) DEFINITIONS.—In this section:

2 “(A) CELLULOSIC BIOMASS ETHANOL.—

3 The term ‘cellulosic biomass ethanol’ means
4 ethanol derived from any lignocellulosic or
5 hemicellulosic matter that is available on a re-
6 newable or recurring basis, including—

7 “(i) dedicated energy crops and trees;

8 “(ii) wood and wood residues;

9 “(iii) plants;

10 “(iv) grasses;

11 “(v) agricultural residues;

12 “(vi) fibers;

13 “(vii) animal wastes and other waste
14 materials; and

15 “(viii) municipal solid waste.

16 The term also includes any ethanol produced in
17 facilities where animal wastes or other waste
18 materials are digested or otherwise used to dis-
19 place 90 percent or more of the fossil fuel nor-
20 mally used in the production of ethanol.

21 “(B) WASTE DERIVED ETHANOL.—The
22 term ‘waste derived ethanol’ means ethanol de-
23 rived from—

1 “(i) animal wastes, including poultry
2 fats and poultry wastes, and other waste
3 materials; or

4 “(ii) municipal solid waste.

5 “(C) RENEWABLE FUEL.—

6 “(i) IN GENERAL.—The term ‘renew-
7 able fuel’ means motor vehicle fuel that—

8 “(I)(aa) is produced from grain,
9 starch, oilseeds, vegetable, animal, or
10 fish materials including fats, greases,
11 and oils, sugarcane, sugar beets,
12 sugar components, tobacco, potatoes,
13 or other biomass; or

14 “(bb) is natural gas produced
15 from a biogas source, including a
16 landfill, sewage waste treatment plant,
17 feedlot, or other place where decaying
18 organic material is found; and

19 “(II) is used to replace or reduce
20 the quantity of fossil fuel present in a
21 fuel mixture used to operate a motor
22 vehicle.

23 “(ii) INCLUSION.—The term renew-
24 able fuel includes—

1 “(I) cellulosic biomass ethanol
2 and waste derived ethanol; and

3 “(II) biodiesel (as defined in sec-
4 tion 312(f) of the Energy Policy Act
5 of 1992 (42 U.S.C. 13220(f))) and
6 any blending components derived from
7 renewable fuel (provided that only the
8 renewable fuel portion of any such
9 blending component shall be consid-
10 ered part of the applicable volume
11 under the renewable fuel program es-
12 tablished by this subsection).

13 “(D) SMALL REFINERY.—The term ‘small
14 refinery’ means a refinery for which the average
15 aggregate daily crude oil throughput for a cal-
16 endar year (as determined by dividing the ag-
17 gregate throughput for the calendar year by the
18 number of days in the calendar year) does not
19 exceed 75,000 barrels.”.

20 (b) RENEWABLE FUEL PROGRAM.—Paragraph (2) of
21 section 211(o) of the Clean Air Act (42 U.S.C.
22 7545(o)(2)) is amended as follows:

23 (1) REGULATIONS.—Clause (i) of subparagraph
24 (A) is amended by striking the last sentence.

1 (2) APPLICABLE VOLUMES OF RENEWABLE
2 FUEL.—Subparagraph (B) is amended to read as
3 follows:

4 “(B) APPLICABLE VOLUME.—For the pur-
5 pose of subparagraph (A), the applicable vol-
6 ume of renewable fuel for each calendar year
7 shall be 7,500,000,000 gallons.”.

8 (c) APPLICABLE PERCENTAGES.—Paragraph (3) of
9 section 211(o) of the Clean Air Act (42 U.S.C.
10 7545(o)(3)) is amended as follows:

11 (1) In subparagraph (A), by striking “each of
12 calendar years 2005 through 2021” and inserting
13 “each calendar year”.

14 (2) In subparagraph (A), by striking “transpor-
15 tation fuel, biomass-based diesel, and cellulosic
16 biofuel” and inserting “gasoline”.

17 (3) In subparagraph (B)(i), by striking “each
18 of calendar years 2005 through 2021” and inserting
19 “each calendar year”.

20 (4) In subparagraph (B), by striking “transpor-
21 tation fuel” and inserting “gasoline” in clause
22 (ii)(II).

23 (d) CELLULOSIC BIOMASS ETHANOL OR WASTE DE-
24 RIVED ETHANOL.—Paragraph (4) of section 211(o) of the

1 Clean Air Act (42 U.S.C. 7545(o)(4)) is amended to read
2 as follows:

3 “(4) CELLULOSIC BIOMASS ETHANOL OR WASTE
4 DERIVED ETHANOL.—For the purpose of paragraph
5 (2), 1 gallon of cellulosic biomass ethanol or waste
6 derived ethanol shall be considered to be the equiva-
7 lent of 2.5 gallons of renewable fuel.”.

8 (e) CREDIT PROGRAM.—Paragraph (5) of section
9 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(5)) is
10 amended by striking subparagraph (E).

11 (f) WAIVERS.—

12 (1) IN GENERAL.—Paragraph (7) of section
13 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(7))
14 is amended—

15 (A) in subparagraph (A), by striking “, by
16 any person subject to the requirements of this
17 subsection, or by the Administrator on his own
18 motion”; and

19 (B) by inserting “State” before “petition
20 for a waiver” in subparagraph (B).

21 (2) CELLULOSIC BIOFUEL.—Paragraph (7) of
22 section 211(o) of the Clean Air Act (42 U.S.C.
23 7545(o)(7)) is amended by striking subparagraph
24 (D).

1 (3) BIOMASS-BASED DIESEL.—Paragraph (7) of
2 section 211(o) of the Clean Air Act (42 U.S.C.
3 7545(o)(7)) is amended by striking subparagraphs
4 (E) and (F).

5 (g) PERIODIC REVIEWS.—Section 211(o) of the
6 Clean Air Act (42 U.S.C. 7545(o)) is amended by striking
7 paragraph (11).

8 (h) SAVINGS CLAUSE.—Section 211(o) of the Clean
9 Air Act (42 U.S.C. 7545(o)) is amended by striking para-
10 graph (12).

11 (i) REGULATIONS.—Section 211 of the Clean Air Act
12 (42 U.S.C. 7545) is amended by striking paragraph (2)
13 of subsection (v).

14 (j) OTHER PROVISIONS.—

15 (1) ENVIRONMENTAL AND RESOURCE CON-
16 SERVATION IMPACTS.—Section 204(b) of the Energy
17 Independence and Security Act of 2007 (Public Law
18 110–140) is repealed.

19 (2) EFFECTIVE DATE, SAVINGS PROVISION, AND
20 TRANSITION RULES.—Section 210 of the Energy
21 Independence and Security Act of 2007 (Public Law
22 110–140) is repealed.

23 (k) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on January 1 of the first cal-
25 endar year following the date of enactment of this Act.

1 (1) ESTIMATES FOR FIRST CALENDAR YEAR.—Prior
2 to January 1 of the first calendar year following the date
3 of enactment of this Act—

4 (1) the Administrator of the Energy Informa-
5 tion Administration shall provide to the Adminis-
6 trator of the Environmental Protection Agency an
7 estimate, under section 211(o)(3) of the Clean Air
8 Act, as amended by this Act, with respect to such
9 calendar year, of the volumes of gasoline projected
10 to be sold or introduced into commerce in the United
11 States; and

12 (2) based on the estimate provided under para-
13 graph (1), the Administrator of the Environmental
14 Protection Agency shall determine and publish in
15 the Federal Register, with respect to such calendar
16 year, the renewable fuel obligation for such calendar
17 year under section 211(o)(3) of the Clean Air Act,
18 as amended by this Act.

19 **SEC. 3. PROHIBITION OF AUTHORIZATION OF HIGHER ETH-**
20 **ANOL BLENDS.**

21 (a) PROHIBITION.—Notwithstanding any provision of
22 the Clean Air Act (42 U.S.C. 7401 et seq.), the Adminis-
23 trator of the Environmental Protection Agency may not
24 permit or authorize (including by granting a waiver
25 through the fuels and fuel additives waiver process under

1 section 211(f)(4) of such Act (42 U.S.C. 7545(f)(4))) the
2 introduction into commerce of gasoline that—

3 (1) contains greater than 10-volume-percent
4 ethanol;

5 (2) is intended for general use in conventional
6 gasoline-powered onroad or nonroad vehicles or en-
7 gines; and

8 (3) is not, on or before the date of enactment
9 of this Act—

10 (A) registered in accordance with section
11 211(b) of such Act (42 U.S.C. 7545(b)); and

12 (B) lawfully sold in the United States.

13 (b) REPEAL OF EXISTING WAIVERS.—

14 (1) IN GENERAL.—Any waiver described in
15 paragraph (2) is repealed and shall have no force or
16 effect.

17 (2) WAIVER.—A waiver described in this para-
18 graph—

19 (A) is a waiver granted pursuant to section
20 211(f)(4) of the Clean Air Act (42 U.S.C.
21 7545(f)(4)) prior to the date of enactment of
22 this Act that permits or authorizes the intro-
23 duction into commerce of gasoline that contains
24 greater than 10-volume-percent ethanol for gen-

1 eral use in conventional gasoline-powered
2 onroad or nonroad vehicles or engines; and

3 (B) includes the following:

4 (i) “Partial Grant and Partial Denial
5 of Clean Air Act Waiver Application Sub-
6 mitted by Growth Energy To Increase the
7 Allowable Ethanol Content of Gasoline to
8 15 Percent; Decision of the Administrator”
9 published at 75 Fed. Reg. 68094 (Novem-
10 ber 4, 2010).

11 (ii) “Partial Grant of Clean Air Act
12 Waiver Application Submitted by Growth
13 Energy To Increase the Allowable Ethanol
14 Content of Gasoline to 15 Percent; Deci-
15 sion of the Administrator” published at 76
16 Fed. Reg. 4662 (January 26, 2011).

17 (3) EXCEPTION.—Paragraph (1) shall not
18 apply with respect to a waiver to the extent such
19 waiver permits or authorizes the introduction into
20 commerce of gasoline—

21 (A) that is described in paragraph (2)(A);

22 and

23 (B) that is, on or before the date of enact-
24 ment of this Act—

1 (i) registered in accordance with sec-
2 tion 211(b) of the Clean Air Act (42
3 U.S.C. 7545(b)); and

4 (ii) lawfully sold in the United States.

5 (c) STUDY.—Not later than 2 years after the date
6 of enactment of this Act, the Administrator of the Envi-
7 ronmental Protection Agency shall conduct, and submit to
8 Congress the results of, a comprehensive study on—

9 (1) the effects of the introduction into com-
10 merce of an ethanol-gasoline blend described in sub-
11 section (b)(2)(A) on consumer products, including—

12 (A) onroad and nonroad vehicles;

13 (B) nonroad engines (such as lawn mow-
14 ers); and

15 (C) any other applicable gasoline-powered
16 vehicles, engines, and devices;

17 (2) the impact of an ethanol-gasoline blend de-
18 scribed in subsection (b)(2)(A) on—

19 (A) engine performance of conventional
20 gasoline-powered onroad and nonroad vehicles
21 and nonroad engines;

22 (B) emissions from the use of the blend;
23 and

24 (C) materials compatibility and consumer
25 safety issues associated with the use of such

1 blend (including the identification of insufficient
2 data or information for some or all of such ve-
3 hicles and engines with respect to each of the
4 issues described in this subparagraph and sub-
5 paragraphs (A) and (B)); and

6 (3) the ability of wholesale and retail gasoline
7 distribution infrastructure, including bulk storage,
8 retail storage configurations, and retail equipment
9 (including certification of equipment compatibility by
10 independent organizations), to introduce such an
11 ethanol-gasoline blend into commerce without wide-
12 spread intentional or unintentional misfueling by
13 consumers.

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