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110TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPT. 110–306, Part 1

RENEWABLE FUELS INFRASTRUCTURE

AUGUST 3, 2007.—Ordered to be printed

Mr. DINGELL, from the Committee on Energy and Commerce, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3238]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3238) to promote the development of renewable fuels infrastructure, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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59–006

PURPOSE AND SUMMARY

The purpose of H.R. 3238 is to encourage the development, deployment, and use of renewable fuels within the United States motor fuel market. The bill achieves these purposes by establishing a grant program to increase renewable fuel infrastructure and assist in the marketing of such fuels; removing potential restrictions in petroleum marketing agreements that could hinder the deployment of renewable fuels; increasing grant funding for the production of cellulosic ethanol; requiring the establishment of standard specifications for biodiesel; and authorizing several studies on issues affecting the increased use of renewable fuels.

The bill also includes the United States-Israel Energy Cooperation Act that aims to extend cooperation between the two nations on the research and development of alternative renewable energy resources.

BACKGROUND AND NEED FOR LEGISLATION

Renewable fuels production in the United States has been increasing over the past several years through a combination of public policies and market forces. According to the U.S. Environmental Protection Agency (EPA), U.S. production of ethanol (largely corn-based) steadily increased from approximately 250 million gallons in 1980 to 1.6 billion gallons in 2000. From 2000 forward, growth in ethanol production increased rapidly, reaching approximately 4 billion gallons in 2005.

Section 1501 of the Energy Policy Act of 2005 included a mandate for the production of ethanol with minimum volume requirements growing from 4 billion gallons in 2006 to 7.5 billion gallons in 2012. Actual production has exceeded these minimum requirements, with 2006 production reaching 4.7 billion gallons and 2007 production on track to reach 5.2 billion gallons. EPA now forecasts 2012 production numbers to reach as much as 14 billion gallons, well in excess of the 7.5 billion gallons required by current law. According to the Renewable Fuels Association, ethanol can now be found in approximately 50 percent of the Nation's gasoline.

As production has increased, more attention has been paid to the deployability of these fuels in terms of their transportation to market; their compatibility with the current motor fuel infrastructure, including automobiles; and the pace of their market penetration.

According to the National Ethanol Vehicle Coalition, an organization that testified twice before the Subcommittee on Energy and Air Quality, of the approximately 170,000 retail outlets that sell motor fuel, serving some 230 million automobiles, only 1,133 sell E85. With approximately 6 million flexible fuel vehicles (FFVs) on the road (capable of running on up to 85 percent ethanol and 15 percent gasoline), that translates into 1 E85 pump for every 5,000 FFVs, as opposed to 1 station for every 1,300 conventional gasoline-powered vehicles.

This disparity is one that H.R. 3238 seeks to address through a variety of policies, including the establishment of a grant program to assist in the installation, replacement, or conversion of motor fuel storage and dispensing infrastructure that will be used for renewable fuels such as E85 or B20. This program, to be managed by the Department of Energy (DOE), is meant to complement and,

as appropriate, hasten the activities of the private sector. For example, in addition to funding infrastructure, the program also authorizes funds for technical and marketing assistance to help retailers market to and educate the public on the value of such fuels. In addition, H.R. 3238 commissions a number of studies to explore infrastructure-related issues in areas where concerns have been identified, but no clear Federal policy has emerged, including the establishment of dedicated ethanol pipelines; the effects of higher ethanol blends in conventional gasoline; and the adequacy of rail transportation for transporting ethanol.

The bill extends the grant program for cellulosic ethanol production first established in the Energy Policy Act of 2005 (EPAct) and increases the authorized amount of the program. It also calls for the establishment of a standard specification for B20 blends of biodiesel in order to facilitate greater use of that fuel.

In amending the Petroleum Marketing Practices Act (PMPA), the Committee was sensitive to maintaining the balance between the policy objective of increasing the availability and distribution of renewable fuels, and the need to protect the brand, logos, and trademarks of the franchisor who may or may not be the producer of that fuel. H.R. 3238 makes clear that actions taken to sell and market renewable fuels cannot be restricted in franchise agreements, so long as such activities do not constitute mislabeling, misbranding, willful adulteration, or other trademark violations by the franchisee.

In cases where the franchisor has no control over, or interest in, the manufacture, sale, transportation, storage, or marketing of the renewable fuels in question, and where these facts are not in dispute, it is not the intent of the Committee that the franchisor be held responsible for actions taken by the franchisee pursuant to Section 107. Therefore, the Committee added a savings provision to continue to allow a franchisor to require the franchisee to obtain reasonable indemnification and insurance policies.

Nothing in the new Section 107 to Title I of the PMPA may be construed to affect or limit the application of or obligation to comply with any environmental law, including the Solid Waste Disposal Act and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. In particular, the liability provisions of Section 9003 of Solid Waste Disposal Act shall continue to apply to any owner or operator of any underground storage tank, and for renewable fuels a franchisee must comply with the compatibility requirements for underground storage systems found in 40 CFR Section 280.32.

Section 110 modifies the procedures for obtaining any waiver under section 211(f)(4) of the Clean Air Act related to renewable fuels and renewable fuel additives. Under existing law, a waiver is deemed granted if the Administrator of the Environmental Protection Agency does not act within 180 days of receiving an application for the waiver. The new section requires the Administrator to take final action on a waiver application within 270 days of receiving the application. An application will not be considered granted unless and until the Administrator takes final action granting the waiver. This section changes neither the circumstances requiring a waiver nor the substantive criteria or standards that the Adminis-

trator shall use in deciding whether to grant or deny a waiver for any fuels or fuel additives.

HEARINGS

There were two oversight hearings and one legislative hearing held by the Subcommittee on Energy and Air Quality, Committee on Energy and Commerce, in connection with the bill reported by the Committee.

The Subcommittee on Energy and Air Quality held a hearing entitled, "Alternative Transportation Fuels: An Overview," on Wednesday, April 18, 2007. The Subcommittee received testimony from the following witnesses: Mr. Brian Foody, Chief Executive Officer, Iogen Corporation; Mr. Donald W. Maley, Jr., Vice President, Leucadia International Corporation; Mr. John Ward, Vice President, Headwaters Incorporated; Dr. Alexander E. Farrell, Assistant Professor of Energy and Resources, Director, Transportation Sustainability Research Center, University of California Berkeley; Mr. Phil Lambert, Executive Director, National Ethanol Vehicle Coalition; and Mr. Scott Hughes, Director, Government Affairs, National Biodiesel Board.

The Subcommittee on Energy and Air Quality held a hearing entitled, "Alternative Fuels: Current Status, Proposals for New Standards, and Related Infrastructure Issues," on Tuesday, May 8, 2007. The Subcommittee received testimony from the following witnesses: Mr. Robert J. Meyers, Associate Assistant Administrator, Environmental Protection Agency; The Honorable Alexander A. Karsner, Assistant Secretary, Energy Efficiency and Renewable Energy, U.S. Department of Energy; Mr. Robert Greco, Group Director, Downstream and Industry Operations, American Petroleum Institute; Mr. Warren I. Mitchell, Chairman of the Board, Clean Energy; Daniel A. Lashof, Ph.D., Climate Center Science Director, Natural Resources Defense Council; Mr. Bob Dinneen, President, Renewable Fuels Association; Mr. Paul D. Reid, President and CEO, Reid Petroleum Corporation; Mr. Charles T. Drevna, Executive Vice President, National Petrochemical and Refiners Association; and Ms. Elizabeth A. Lowery, Vice President for Environment, Energy and Safety, General Motors Public Policy Center.

The Subcommittee on Energy and Air Quality held a hearing entitled "Legislative Hearing on Discussion Draft Concerning Alternative Fuels, Infrastructure, and Vehicles," on Thursday, June 7, 2007. The Subcommittee received testimony from the following witnesses: Mr. Bob Dinneen, President and CEO, Renewable Fuels Association; Mr. Charles T. Drevna, Executive Vice President, National Petrochemical and Refiners Association; Mr. Phillip J. Lampert, Executive Director, National Ethanol Vehicle Coalition; Ms. Sonja Hubbard, Chief Executive Officer, E–Z Mart Stores, Inc.; Mr. John DeCicco, Senior Automotive Fellow, Environmental Defense; Mr. Alan Reuther, Legislative Director, International Union, United Automobile, Aerospace & Agricultural Implement Workers of America; The Honorable Dave McCurdy, President and CEO, Alliance of Automobile Manufacturers; The Honorable Alexander A. Karsner, Assistant Secretary, Energy Efficiency and Renewable Energy, U.S. Department of Energy; and Mr. Robert J. Meyers, Acting Assistant Administrator, Office of Air and Radiation, Environmental Protection Agency.

SUBCOMITTEE CONSIDERATION

Prior to the introduction of H.R. 3238, its text was considered in the Committee as a Committee Print.

On Wednesday, June 20, 2007 the Subcommittee on Energy and Air Quality met in open markup session and considered a Committee Print to promote the development of renewable fuels infrastructure, and for other purposes. The Committee Print was favorably forwarded to the full Committee, amended, by a recorded vote of 17–14. The Committee Print forwarded by the Subcommittee was subsequently designated Committee Print #4 for full Committee consideration.

COMMITTEE CONSIDERATION

On Thursday, June 28, 2007, the full Committee met in open markup session and considered the Committee Print, which was then ordered favorably reported to the House, amended, by a recorded vote of 33–21. On July 31, 2007, a clean bill, H.R. 3238, was introduced with the approved language of the Committee Print, and was referred to the full Committee to be reported to the House without further consideration.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. Mr. Dingell moved that the Committee favorably report the Committee Print, amended, to the House. The motion to report Committee Print favorably to the House was agreed to a recorded vote of 33–21. The following are the recorded votes taken on the motion and on amendments, including the names of those Members voting for and against.

COMMITTEE ON ENERGY AND COMMERCE -- 110TH CONGRESS
ROLL CALL VOTE # 25

BILL: Committee Print # 4, to promote the development of renewable fuels infrastructure.

AMENDMENT: An amendment by Mr. Barton, # 4, to insert, at the end of the bill, Sec. 13 regarding average renewable fuel efficiency standards for passenger automobiles capable of operating on renewable fuel.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 26 yeas to 31 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Dingell		X		Mr. Barton	X		
Mr. Waxman		X		Mr. Hall	X		
Mr. Markey		X		Mr. Hastert	X		
Mr. Boucher		X		Mr. Upton	X		
Mr. Towns		X		Mr. Stearns	X		
Mr. Pallone		X		Mr. Deal	X		
Mr. Gordon		X		Mr. Whitfield	X		
Mr. Rush		X		Mrs. Cubin	X		
Ms. Eshoo		X		Mr. Shimkus	X		
Mr. Stupak		X		Mrs. Wilson	X		
Mr. Engel		X		Mr. Shadegg	X		
Mr. Wynn		X		Mr. Pickering	X		
Mr. Green		X		Mr. Fossella	X		
Ms. DeGette		X		Mr. Buyer	X		
Ms. Capps		X		Mr. Radanovich	X		
Mr. Doyle		X		Mr. Pitts	X		
Ms. Harman		X		Ms. Bono	X		
Mr. Allen		X		Mr. Walden	X		
Ms. Schakowsky		X		Mr. Terry	X		
Ms. Solis		X		Mr. Ferguson	X		
Mr. Gonzalez		X		Mr. Rogers	X		
Mr. Inslee		X		Mrs. Myrick	X		
Ms. Baldwin		X		Mr. Sullivan	X		
Mr. Ross		X		Mr. Murphy	X		
Ms. Hooley		X		Mr. Burgess	X		
Mr. Weiner		X		Ms. Blackburn	X		
Mr. Matheson		X					
Mr. Butterfield		X					
Mr. Melancon		X					
Mr. Barrow		X					
Mr. Hill		X					

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COMMITTEE ON ENERGY AND COMMERCE -- 110TH CONGRESS
ROLL CALL VOTE # 26

BILL: Committee Print # 4, to promote the development of renewable fuels infrastructure.

AMENDMENT: An amendment by Mr. Shimkus, # 5, to require that the national fuel pool to include specified amounts of alternative fuels.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 23 yeas to 29 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Dingell		X		Mr. Barton	X		
Mr. Waxman				Mr. Hall	X		
Mr. Markey		X		Mr. Hastert	X		
Mr. Boucher		X		Mr. Upton	X		
Mr. Towns		X		Mr. Stearns	X		
Mr. Pallone				Mr. Deal	X		
Mr. Gordon		X		Mr. Whitfield	X		
Mr. Rush				Mrs. Cubin	X		
Ms. Eshoo		X		Mr. Shimkus	X		
Mr. Stupak		X		Mrs. Wilson	X		
Mr. Engel		X		Mr. Shadegg	X		
Mr. Wynn		X		Mr. Pickering	X		
Mr. Green		X		Mr. Fossella		X	
Ms. DeGette		X		Mr. Buyer	X		
Ms. Capps		X		Mr. Radanovich	X		
Mr. Doyle		X		Mr. Pitts	X		
Ms. Harman		X		Ms. Bono	X		
Mr. Allen		X		Mr. Walden			
Ms. Schakowsky		X		Mr. Terry	X		
Ms. Solis		X		Mr. Ferguson			
Mr. Gonzalez		X		Mr. Rogers	X		
Mr. Inslee		X		Mrs. Myrick	X		
Ms. Baldwin		X		Mr. Sullivan	X		
Mr. Ross		X		Mr. Murphy	X		
Ms. Hooley		X		Mr. Burgess	X		
Mr. Weiner		X		Ms. Blackburn	X		
Mr. Matheson		X					
Mr. Butterfield		X					
Mr. Melancon		X					
Mr. Barrow		X					
Mr. Hill		X					

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COMMITTEE ON ENERGY AND COMMERCE -- 110TH CONGRESS
ROLL CALL VOTE # 27

BILL: Committee Print # 4, to promote the development of renewable fuels infrastructure.

MOTION: A motion by Mr. Dingell to order Committee Print # 4 favorably reported to the House, amended.

DISPOSITION: **AGREED TO**, by a roll call vote of 33 yeas to 21 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Dingell	X			Mr. Barton		X	
Mr. Waxman				Mr. Hall		X	
Mr. Markey	X			Mr. Hastert		X	
Mr. Boucher	X			Mr. Upton		X	
Mr. Towns	X			Mr. Stearns			
Mr. Pallone	X			Mr. Deal		X	
Mr. Gordon	X			Mr. Whitfield		X	
Mr. Rush	X			Mrs. Cubin		X	
Ms. Eshoo	X			Mr. Shimkus		X	
Mr. Stupak	X			Mrs. Wilson	X		
Mr. Engel	X			Mr. Shadegg		X	
Mr. Wynn	X			Mr. Pickering		X	
Mr. Green	X			Mr. Fossella		X	
Ms. DeGette	X			Mr. Buyer	X		
Ms. Capps	X			Mr. Radanovich		X	
Mr. Doyle	X			Mr. Pitts		X	
Ms. Harman	X			Ms. Bono		X	
Mr. Allen	X			Mr. Walden	X		
Ms. Schakowsky	X			Mr. Terry		X	
Ms. Solis	X			Mr. Ferguson			
Mr. Gonzalez	X			Mr. Rogers		X	
Mr. Inslee	X			Mrs. Myrick		X	
Ms. Baldwin	X			Mr. Sullivan		X	
Mr. Ross	X			Mr. Murphy		X	
Ms. Hooley	X			Mr. Burgess		X	
Mr. Weiner	X			Ms. Blackburn		X	
Mr. Matheson	X						
Mr. Butterfield	X						
Mr. Melancon	X						
Mr. Barrow	X						
Mr. Hill	X						

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COMMITTEE OVERSIGHT FINDINGS

Regarding clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the oversight findings of the Committee on the bill are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goals and objectives of H.R. 3238 are to promote the deployment of renewable fuels by removing barriers to the availability of such fuels and to encourage investment in renewable fuels through grants for infrastructure.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Regarding compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3238 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

EARMARKS AND TAX AND TARIFF BENEFITS

Regarding compliance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3238 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE COST ESTIMATE

The Committee will adopt as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Regarding clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate on H.R. 3238 by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available as of the time of the filing of this report by the Committee.

FEDERAL MANDATES STATEMENT

The Committee will adopt as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

Regarding section 5(b) of the Federal Advisory Committee Act, section 204 the bill establishes an advisory committee. The Committee finds that establishing the advisory committee is the most efficient way of carrying out the policies involved.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause

3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes, and in the provisions of Article I, section 8, clause 1, that relate to expending funds to provide for the general welfare of the United States.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Title I—Renewable Fuel Infrastructure

Section 101. Renewable fuels infrastructure development

Requires DOE to establish a grant program to assist with the installation, replacement, or conversion of existing infrastructure to allow it to be used with renewable fuel, including E85. Also provides for technical assistance and marketing grants. Authorizes $200 million annually to DOE for purposes of carrying out this section. Prohibits the awarding of any grant to a large, vertically integrated oil company.

Section 102. Prohibition of franchise agreement restrictions on renewable fuel infrastructure

Amends the Petroleum Marketing Practices Act (PMPA) to prohibit a franchise agreement from restricting the franchisee's ability to install renewable fuel infrastructure, convert existing infrastructure to renewable fuel use, advertise the availability of renewable fuel, or sell renewable fuel in any specified area of the marketing premises.

Section 103. Renewable fuel dispenser requirements

DOE, in consultation with the Department of Transportation (DOT), shall report to Congress on the market penetration of FFVs and on the feasibility of requiring motor fuel retailers to install E85 compatible dispensers.

Section 104. Pipeline feasibility study

Requires DOE, in consultation with DOT, to conduct a study on the feasibility of the construction of dedicated ethanol pipelines.

Section 105. Study of ethanol-blended gasoline with greater levels of ethanol

Requires EPA, in consultation with DOE and DOT, to conduct a study of the feasibility of widespread use of ethanol blended gasoline with levels of ethanol greater that 10 percent.

Section 106. Study of the adequacy of railroad transportation of domestically-produced renewable fuel

Requires DOE, in consultation with DOT, to study and report to Congress on the adequacy of railroad infrastructure for the delivery of ethanol.

Section 107. Standard specification for biodiesel

Requires EPA to promulgate regulations establishing uniform per gallon fuel standards for categories of biodiesel fuel so that engine manufacturers are able to design engines for biodiesel fuel that meets such standards.

Section 108. Grants for cellulosic ethanol production

Amends EPACT to increase the authorized amount of cellulosic ethanol production grants and establish criteria to promote geographical dispersion of grant recipients and feedstock diversity.

Section 109. Consumer education campaign relating to flexible-fuel vehicles

Requires DOT, in consultation with DOE, to engage in a public education campaign to make consumers aware of the availability of flexible-fuel vehicles and the locations where renewable fuels can be purchased.

Section 110. Review of new renewable fuels or new renewable fuel additives

Modifies the procedures for obtaining any waiver under section 211(f)(4) of the Clean Air Act related to renewable fuels and renewable fuel additives. This section requires the Administrator to take final action on a waiver application within 270 days of receiving the application. An application will not be considered granted unless and until the Administrator takes final action granting the Waiver.

Section 111. Domestic manufacturing conversion grant program

Creates a grant program to support the domestic development and production of flexible-fuel vehicles.

Section 112. Cellulosic ethanol and biofuels research

Authorizes $50 million for cellulosic ethanol grants to 10 entities from 1890 land grant colleges, Historically Black Colleges or Universities, Tribal serving institutions or Hispanic serving institutions.

Section 113. Federal fleet fueling centers

Requires each Federal agency to install renewable fuel pumps at their fleet fueling centers and requires an annual report on progress towards complying with this section.

Section 114. Study of the impact of increased renewable fuel use

Requires DOE, EPA, EIA, and USDA to conduct a study of various impacts of increased renewable fuel use including energy security, public health and the environment, and job creation.

Section 115. Grants for renewable fuel production research and development in certain states

Requires DOE to provide grants for eligible entities for research into renewable fuel production technologies in States with low rates of ethanol production.

Section 116. Study of effect of oil prices

Requires DOE to conduct a study on the effect on renewable fuels production if oil is priced no lower than $40 per barrel.

Section 117. Biodiesel as alternative fuel for CAFE purposes

Amends Section 32901(a) of Title 49, United States Code, to designate B20 biodiesel blend as an alternative fuel for the purposes of Corporate Average Fuel Economy.

Title II—United States-Israel Energy Cooperation

Section 201. Short title

Section 202. Findings

Section 203. Grant program

Requires DOE to award grants to eligible entities.

Section 204. International Advisory Board

Establishes an International Advisory Board within DOE to advise the Secretary of Energy on the awarding of grants under Section 203.

Section 205. Definitions

Section 206. Termination

Terminates the Section 203 grant program after 7 years.

Section 207. Authorization of appropriations

Authorizes $20 million for fiscal years 2008 to 2014.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PETROLEUM MARKETING PRACTICES ACT

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Petroleum Marketing Practices Act".

TABLE OF CONTENTS

TITLE I—FRANCHISE PROTECTION

Sec. 101. Definitions.

* * * * * * *

Sec. 107. Prohibition on restriction of installation of renewable fuel pumps.

TITLE II—OCTANE DISCLOSURE

Sec. 201. Definitions.
[Sec. 202. Octane testing and disclosure requirements.]
Sec. 202. Automotive fuel rating testing and disclosure requirements.

* * * * * * *

TITLE I—FRANCHISE PROTECTION

DEFINITIONS

SEC. 101. As used in this title:

(1) * * *

* * * * * * *

(13) The term "failure" does not include—

(A) * * *

* * * * * * *

(C) any failure based on a provision of the franchise which is illegal or unenforceable under the law of any State (or subdivision thereof).

* * * * * * *

ENFORCEMENT

SEC. 105. (a) If a franchisor fails to comply with the requirements of section [102 or 103] *102, 103, or 107*, the franchisee may maintain a civil action against such franchisor. Such action may be brought, without regard to the amount in controversy, in the district court of the United States in any judicial district in which the principal place of business of such franchisor is located or in which such franchisee is doing business, except that no such action may be maintained unless commenced within 1 year after the later of—

(1) the date of termination of the franchise or nonrenewal of the franchise relationship; or

(2) the date the franchisor fails to comply with the requirements of section [102 or 103] *102, 103, or 107*.

(b)(1) In any action under subsection (a), the court shall grant such equitable relief as the court determines is necessary to remedy the effects of any failure to comply with the requirements of section [102 or 103] *102, 103, or 107*, including declaratory judgment, mandatory or prohibitive injunctive relief, and interim equitable relief.

* * * * * * *

(d)(1) If the franchisee prevails in any action under subsection (a), such franchisee shall be entitled—

(A) * * *

(B) in the case of any such action which is based upon conduct of the franchisor which was in willful disregard of the requirements of section [102 or 103] *102, 103, or 107*, or the rights of the franchisee thereunder, to exemplary damages, where appropriate; and

* * * * * * *

SEC. 107. PROHIBITION ON RESTRICTION OF INSTALLATION OF RENEWABLE FUEL PUMPS.

(a) DEFINITION.—In this section:

(1) RENEWABLE FUEL.—The term "renewable fuel" means any fuel—

(A) at least 85 percent of the volume of which consists of ethanol; or

(B) any mixture of biodiesel and diesel or renewable diesel (as defined in regulations adopted pursuant to section

211(o) of the Clean Air Act (40 C.F.R., Part 80)), determined without regard to any use of kerosene and containing at least 20 percent biodiesel or renewable diesel.

(2) FRANCHISE-RELATED DOCUMENT.—The term "franchise-related document" means—

(A) a franchise under this Act; and

(B) any other contract or directive of a franchisor relating to terms or conditions of the sale of fuel by a franchisee.

(b) PROHIBITIONS.—

(1) IN GENERAL.—No franchise-related document entered into or renewed on or after the date of enactment of this section shall contain any provision allowing a franchisor to restrict the franchisee or any affiliate of the franchisee from—

(A) installing on the marketing premises of the franchisee a renewable fuel pump or tank, except that the franchisee's franchisor may restrict the installation of a tank on leased marketing premises of such franchisor;

(B) converting an existing tank or pump on the marketing premises of the franchisee for renewable fuel use, so long as such tank or pump and the piping connecting them are either warranted by the manufacturer or certified by a recognized standards setting organization to be suitable for use with such renewable fuel;

(C) advertising (including through the use of signage) the sale of any renewable fuel;

(D) selling renewable fuel in any specified area on the marketing premises of the franchisee (including any area in which a name or logo of a franchisor or any other entity appears);

(E) purchasing renewable fuel from sources other than the franchisor if the franchisor does not offer its own renewable fuel for sale by the franchisee;

(F) listing renewable fuel availability or prices, including on service station signs, fuel dispensers, or light poles; or

(G) allowing for payment of renewable fuel with a credit card,

so long as such activities described in subparagraphs (A) through (G) do not constitute mislabeling, misbranding, willful adulteration, or other trademark violations by the franchisee.

(2) EFFECT OF PROVISION.—Nothing in this section shall be construed to preclude a franchisor from requiring the franchisee to obtain reasonable indemnification and insurance policies.

(c) EXCEPTION TO 3-GRADE REQUIREMENT.—No franchise-related document that requires that 3 grades of gasoline be sold by the applicable franchisee shall prevent the franchisee from selling an renewable fuel in lieu of 1, and only 1, grade of gasoline.

* * * * * * *

CLEAN AIR ACT

* * * * * * *

TITLE II—EMISSION STANDARDS FOR MOVING SOURCES

* * * * * * *

PART A—MOTOR VEHICLE EMISSION AND FUEL STANDARDS

* * * * * * *

REGULATION OF FUELS

SEC. 211. (a) * * *

* * * * * * *

[(r)] *(s)* CONVERSION ASSISTANCE FOR CELLULOSIC BIOMASS, WASTE-DERIVED ETHANOL, APPROVED RENEWABLE FUELS.—

(1) * * *

* * * * * * *

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated the following amounts to carry out this subsection:

(A) * * *

* * * * * * *

(D) $500,000,000 for fiscal year 2009.

(E) $500,000,000 for fiscal year 2010.

* * * * * * *

(5) CRITERIA.—In awarding grants under this section, the Secretary shall give priority to applications that promote feedstock diversity and the geographic dispersion of production facilities.

[(s)] *(t)* BLENDING OF COMPLIANT REFORMULATED GASOLINES.—

(1) * * *

* * * * * * *

(u) STANDARD SPECIFICATIONS FOR BIODIESEL.—Unless the American Society for Testing and Materials has adopted a standard for diesel fuel containing 20 percent biodiesel, not later than 1 year after the date of enactment of this subsection, the Administrator shall initiate a rulemaking establishing a series of uniform per gallon fuel standards for categories of fuels that contain biodiesel, including one standard for fuel containing 20 percent biodiesel, and designate an identification number for fuel meeting each standard in each such category so that vehicle manufacturers are able to design engines to use fuel meeting one or more of such standards. The Administrator shall finalize the standards under this subsection 18 months after the date of the enactment of this subsection.

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ENERGY POLICY ACT OF 2005

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TITLE VII—VEHICLES AND FUELS

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Subtitle B—Hybrid Vehicles, Advanced Vehicles, and Fuel Cell Buses

PART 1—HYBRID VEHICLES

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SEC. 712. EFFICIENT HYBRID AND ADVANCED DIESEL VEHICLES.

(a) PROGRAM.—The Secretary shall establish a program to encourage domestic production and sales of efficient hybrid and advanced diesel vehicles. The program shall include grants to automobile manufacturers to encourage domestic production of efficient hybrid*, flexible-fuel,* and advanced diesel vehicles. *Priority shall be given to the refurbishment or retooling of manufacturing facilities that have recently ceased operation or will cease operation in the near future.*

[(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for each of the fiscal years 2006 through 2015.**]**

(b) COORDINATION WITH STATE AND LOCAL PROGRAMS.—The Secretary may coordinate implementation of this section with State and local programs designed to accomplish similar goals, including the retention and retraining of skilled workers from the such manufacturing facilities, including by establishing matching grant arrangements.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

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TITLE 49, UNITED STATES CODE

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Subtitle VI—Motor Vehicle and Driver Programs

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PART C—INFORMATION, STANDARDS, AND REQUIREMENTS

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CHAPTER 329—AUTOMOBILE FUEL ECONOMY

§ 32901. Definitions

(a) GENERAL.—In this chapter—

(1) "alternative fuel" means—

(A) * * *

* * * * * * *

(J) B20 biodiesel blend;

[(J)] *(K)* electricity (including electricity from solar energy); and

[(K)] *(L)* any other fuel the Secretary of Transportation prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits.

* * * * * * *

(7) "biodiesel" means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545); and

(B) the requirements of the American Society of Testing and Materials D6751.

(8) "B20 biodiesel blend" means a mixture of biodiesel and diesel fuel approximately 20 percent of the content of which is biodiesel, and commonly known as "B20".

[(7)] *(9)* "dedicated automobile" means an automobile that operates only on alternative fuel.

[(8)] *(10)* "dual fueled automobile" means an automobile that—

(A) * * *

* * * * * * *

[(9)] *(11)* "fuel" means—

(A) * * *

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[(10)] *(12)* "fuel economy" means the average number of miles traveled by an automobile for each gallon of gasoline (or equivalent amount of other fuel) used, as determined by the Administrator under section 32904(c) of this title.

[(11)] *(13)* "import" means to import into the customs territory of the United States.

[(12)] *(14)* "manufacture" (except under section 32902(d) of this title) means to produce or assemble in the customs territory of the United States or to import.

[(13)] *(15)* "manufacturer" means—

(A) * * *

* * * * * * *

[(14)] *(16)* "model" means a class of automobiles as decided by regulation by the Administrator after consulting and coordinating with the Secretary.

[(15)] *(17)* "model year", when referring to a specific calendar year, means—

(A) * * *

* * * * * * *

[(16)] *(18)* "passenger automobile" means an automobile that the Secretary decides by regulation is manufactured primarily for transporting not more than 10 individuals, but does not include an automobile capable of off-highway operation that the Secretary decides by regulation—

(A) * * *

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DISSENTING VIEWS OF REPRESENTATIVES JOE BARTON, RALPH M. HALL, DENNIS HASTERT, ED WHITFIELD, BARBARA CUBIN, JOHN SHADEGG, JOSEPH R. PITTS, SUE MYRICK, AND JOHN SULLIVAN

MINORITY VIEWS ON COMMITTEE PRINT 4—JUNE 28, 2007

More than ever, Americans are demanding action by Congress to achieve energy security. Despite two significant attempts during Committee mark-up of Print 4 to advance energy security, the bill as reported fails any test of serious energy policy.

The first attempt was an amendment to modernize the Corporate Average Fuel Economy (CAFE) program. Americans understand too well that a large component of the record high automotive fuel costs they have faced this summer is traced to demand-side pressures caused by vehicles that consume fuel at rates far in excess of world fleet averages. The time to face this issue squarely has arrived.

CAFE action in June by the other body of Congress has the support of several interest groups but is so aggressive that it directly threatens three core values:

1. consumer choice;
2. jobs in the domestic vehicle manufacturing sector; and
3. a future role for the domestic vehicle industry in the U.S. economy.

With that in mind, we offered an amendment that takes a serious approach to CAFE, but which most of the auto industry (including organized auto workers) said was achievable without sacrificing our shared core values. It would provide a 35 mile per gallon equivalent minimum fuel standard by 2022, while taking into account vehicle attributes that consumers require.

That offer was rejected out of hand on a straight party line vote, leaving the bill silent on automotive fuel standards, despite the clear wishes of a majority of Americans, pressure from the other body to take even more radical action, and the desire of the industry itself, to squarely face the issue.

The second attempt was an amendment to address the supply side of the energy security question by putting in place a fuel standard that would assure diversity of fuel supply and reduce dependence on unstable, foreign sources of oil. The amendment provided for a percentage of our transportation fuel supply to be derived from sources other than crude oil, among others domestic coal and advanced biofuels, both of which are potentially plentiful from domestic sources. This amendment was also rejected by the Majority. Again, the American people demand action and Congress does nothing.

What was left standing in Print 4 was so inconsequential (a few studies and subsidy programs, mostly targeted for special interests)

that we could not in good conscience approve it, lest our constituents think that we regard it as remotely responsive to their needs. The people we are privileged to serve sent us to Congress to tackle these problems on their behalf. Each time we in the Minority try, we are stiff-armed by the Majority, who insist on running away from the issues instead of facing them head-on.

JOE BARTON.
RALPH M. HALL.
J. DENNIS HASTERT.
ED WHITFIELD.
BARBARA CUBIN.
JOHN SHADEGG.
JOSEPH R. PITTS.
SUE MYRICK.
JOHN SULLIVAN.

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