

106TH CONGRESS
2D SESSION

H. R. 4441

To amend title 49, United States Code, to provide a mandatory fuel surcharge for transportation provided by certain motor carriers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2000

Mr. RAHALL introduced the following bill; which was referred to the
Committee on Transportation

A BILL

To amend title 49, United States Code, to provide a mandatory fuel surcharge for transportation provided by certain motor carriers, 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 “Motor Carrier Fuel
5 Cost Equity Act of 2000”.

6 **SEC. 2. MANDATORY FUEL SURCHARGE.**

7 (a) IN GENERAL.—Chapter 137 of title 49, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

1 **“§ 13714. Fuel surcharge**

2 “(a) MANDATORY FUEL SURCHARGE.—

3 “(1) ESTABLISHMENT OF SURCHARGE.—Any
4 contract or agreement providing for truckload trans-
5 portation or service involving a motor carrier,
6 broker, or freight forwarder subject to jurisdiction
7 under chapter 135 who regularly provides such
8 transportation or service shall include a requirement
9 to assess a payor of transportation charges a min-
10 imum surcharge for fuel used in the transportation
11 provided to such payor commencing when an in-
12 crease in the price of such fuel surpasses the bench-
13 mark in paragraph (2). The surcharge assessed by
14 the motor carrier, broker, or freight forwarder shall
15 be calculated on the basis of mileage or percentage
16 of revenue (whichever basis the motor carrier,
17 broker, or freight forwarder elects) and shall be the
18 amount necessary to compensate the person respon-
19 sible for paying for fuel for any increase in the price
20 of fuel from the Fuel Price Norm in paragraph (2).

21 “(2) BENCHMARK.—The benchmark referred to
22 in paragraph (1) is the difference between the Cur-
23 rent Fuel Price and the Fuel Price Norm, when
24 such difference exceeds \$0.05. The Current Fuel
25 Price shall be determined by the latest weekly En-
26 ergy Information Administration’s Average Retail

1 On-Highway Diesel Prices, National U.S. Average,
2 as published by the Department of Energy. The
3 Fuel Price Norm shall be determined by calculating
4 the latest 52-week average of such Retail On-High-
5 way Diesel Prices.

6 “(b) IMPLEMENTATION.—The surcharge referred to
7 in subsection (a)(1) shall be—

8 “(1) calculated on the date the shipment is ten-
9 dered to the motor carrier, broker, or freight for-
10 warder;

11 “(2) itemized separately on the motor carrier,
12 broker, or freight forwarder’s invoices; and

13 “(3) paid by the payer of transportation
14 charges.

15 “(c) FACTORS.—For purposes of calculating a sur-
16 charge under this section—

17 “(1) average fuel economy is 5 miles per gallon;
18 and

19 “(2) mileage means the number of paid miles
20 driven as determined under the Department of
21 Defense, Military Traffic Management Command’s
22 ‘Defense Table of Official Distances’.

23 “(d) LIMITATION ON AUTHORITY.—Notwithstanding
24 any other provision of this part, enforcement of this sec-
25 tion shall be through the private right of action provided

1 in section 14704(a) of title 49, United States Code, and
2 neither the Secretary of Transportation nor the Surface
3 Transportation Board shall have regulatory or enforce-
4 ment authority relating to provisions of this section.”.

5 (b) CLERICAL AMENDMENT.—The analysis for chap-
6 ter 137 of such title is amended by adding at the end the
7 following:

“13714. Fuel surcharge.”.

8 **SEC. 3. CONFORMING AMENDMENT.**

9 Section 14102 of title 49, United States Code, is
10 amended by adding at the end the following:

11 “(c) MANDATORY PASS-THROUGH TO COST BEAR-
12 ER.—

13 “(1) IN GENERAL.—A motor carrier, broker, or
14 freight forwarder providing transportation or service
15 using motor vehicles not owned by it and using fuel
16 not paid for by it—

17 “(A) shall pass through to the person re-
18 sponsible for paying for fuel any fuel surcharge
19 required by section 13714 or provided for in
20 transportation contracts or agreements;

21 “(B) shall disclose in writing to the equip-
22 ment lessor and lessee the amount of all freight
23 rates and charges and fuel surcharges applica-
24 ble to such transportation or service; and

1 “(C) is prohibited from reducing compen-
2 satory transportation costs (other than the fuel
3 surcharge) to the payer of fuel for the purpose
4 of adjusting for or avoiding the pass through of
5 the fuel surcharge.

6 “(2) LIMITATION ON AUTHORITY.—Notwith-
7 standing any other provision of this part, enforce-
8 ment of this section shall be through the private
9 right of action provided in section 14704(a) of title
10 49, United States Code, and neither the Secretary of
11 Transportation nor the Surface Transportation
12 Board shall have regulatory or enforcement author-
13 ity relating to provisions of this subsection.”.

14 **SEC. 4. SAVINGS CLAUSE.**

15 Nothing in this Act shall be deemed to abrogate pro-
16 visions relating to fuel surcharges in any transportation
17 contract or agreement in effect on the date of enactment
18 of this Act and any renewal of such a contract or agree-
19 ment thereafter.

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