

110TH CONGRESS
1ST SESSION

H. R. 4306

To amend the Clean Air Act and the Internal Revenue Code of 1986 to increase the use of ethanol and bio-diesel, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2007

Mr. KING of Iowa (for himself and Mr. LATHAM) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Clean Air Act and the Internal Revenue Code of 1986 to increase the use of ethanol and bio-diesel, 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 **TITLE I—USE OF ETHANOL AND**
4 **BIO-DIESEL**

5 **SEC. 101. DEFINITIONS.**

6 Section 211(o)(1) of the Clean Air Act (42 U.S.C.
7 7545(o)(1)) is amended to read as follows:

8 “(1) DEFINITIONS.—In this section:

1 “(A) RENEWABLE FUEL.—The term ‘re-
2 newable fuel’ means ethanol produced from re-
3 newable biomass.

4 “(B) BIO-DIESEL.—The term ‘bio-diesel’
5 means bio-diesel as defined in section 312(f) of
6 the Energy Policy Act of 1992 (42 U.S.C.
7 13220(f)), but only if such fuel contains methyl
8 or ethyl esters.

9 “(C) RENEWABLE BIOMASS.—The term
10 ‘renewable biomass’ means each of the fol-
11 lowing:

12 “(i) Planted crops and crop residue
13 harvested—

14 “(I) from agricultural land
15 cleared or cultivated at any time prior
16 to the enactment of this sentence that
17 is either actively managed or fallow
18 and nonforested; and

19 “(II) in compliance with a con-
20 servation plan that meets the stand-
21 ards, guidelines and restrictions pro-
22 vided for by Subtitles B and C of title
23 XII of the Food Security Act of 1985.

24 “(ii) Planted trees and tree residue
25 from actively managed tree plantations on

1 non-federal land cleared at any time prior
2 to enactment of this sentence.

3 “(iii) Animal waste material and ani-
4 mal byproducts.

5 “(iv) Slash and pre-commercial
6 thinnings from Federal and non-federal
7 forestlands other than ecological commu-
8 nities with a global or state ranking of
9 critically imperiled, imperiled, or rare pur-
10 suant to a State Natural Heritage Pro-
11 gram, old growth forest, or late succes-
12 sional forest.

13 “(v) Biomass obtained from the im-
14 mediate vicinity of buildings and other
15 areas regularly occupied by people, or of
16 public infrastructure, at risk from wildfire.

17 “(vi) Algae.

18 “(vii) Separated food waste or yard
19 waste.

20 “(D) SMALL REFINERY.—The term ‘small
21 refinery’ means a refinery for which the average
22 aggregate daily crude oil throughput for a cal-
23 endar year (as determined by dividing the ag-
24 gregate throughput for the calendar year by the

1 number of days in the calendar year) does not
2 exceed 75,000 barrels.”.

3 **SEC. 102. ETHANOL AND BIO-DIESEL STANDARDS.**

4 (a) RENEWABLE FUEL PROGRAM.—Paragraph (2) of
5 section 211(o) (42 U.S.C. 7545(o)(2)) of the Clean Air
6 Act is amended as follows:

7 (1) REGULATIONS.—Clause (i) of subparagraph
8 (A) is amended to read as follows: “Not later than
9 1 year after the date of enactment of this sentence,
10 the Administrator shall promulgate regulations
11 under this paragraph to ensure that fuel sold or in-
12 troduced into commerce in the United States (except
13 in noncontiguous States or territories) for use in
14 motor vehicles, on an annual average basis, contains
15 at least the applicable volume of renewable fuel and
16 bio-diesel, determined in accordance with subpara-
17 graph (B).”

18 (2) APPLICABLE VOLUMES.—Subparagraph (B)
19 is amended by striking out clause (iv) and by
20 amending so much of subparagraph (B) as precedes
21 clause (iii) to read as follows:

22 “(B) APPLICABLE VOLUMES.—

23 “(i) CALENDAR YEARS AFTER 2005.—

24 “(I) RENEWABLE FUEL.—For
25 the purpose of subparagraph (A), the

1 applicable volume of renewable fuel
 2 for the calendar years 2006 through
 3 2022 shall be determined in accord-
 4 ance with the following table:

“Calendar year:	Applicable volume of renewable fuel (in billions of gallons):
2006	4.0
2007	4.7
2008	9.5
2009	11
2010	12.0
2011	12.6
2012	13.2
2013	13.8
2014	14.4
2015	15.0
2016	18.0
2017	21.0
2018	24.0
2019	27.0
2020	30.0
2021	33.0
2022	36.0

5 “(II) BIOMASS-BASED DIESEL.—
 6 For the purpose of subparagraph (A),
 7 the applicable volume of bio-diesel for
 8 the calendar years 2008 through 2012
 9 shall be determined in accordance
 10 with the following table:

“Calendar year:	Applicable volume of bio-diesel (in millions of gallons):
2008	450
2009	650
2010	875
2011	1,125
2012	1,300

11 “(ii) OTHER CALENDAR YEARS.—For
 12 the purposes of subparagraph (A), the ap-

1 applicable volumes of each fuel specified in
2 the tables in clause (i) for calendar years
3 after the calendar years specified in the ta-
4 bles shall be determined by the Adminis-
5 trator, in coordination with the Secretary
6 of Energy and the Secretary of Agri-
7 culture, with a review of the implementa-
8 tion of the program during calendar years
9 specified in the tables, and an analysis
10 of—

11 “(I) the impact of the production
12 and use of renewable fuels on the en-
13 vironment, air quality, biomass-based
14 diesel, job creation, and rural eco-
15 nomic development; and

16 “(II) the expected annual rate of
17 future production of renewable fuels
18 and biomass-based diesel);”.

19 (b) APPLICABLE PERCENTAGES.—Paragraph (3) of
20 section 211(o) of the Clean Air Act (42 U.S.C.
21 7545(o)(3)) is amended as follows:

22 (1) In subparagraph (A), strike “2011” and in-
23 sert “2022”.

24 (2) In subparagraph (A), strike “gasoline” and
25 insert “fuel for motor vehicles”.

1 (3) In subparagraph (B), strike “2012” and in-
2 sert “2023” and insert “distributors” after “refin-
3 eries” in clause (ii)(I).

4 (4) In subparagraph (B), strike “gasoline” and
5 insert “fuel for motor vehicles” in clause (ii)(II).

6 **SEC. 103. EFFECTIVE DATE.**

7 This title takes effect January 1, 2008.

8 **TITLE II—AVAILABILITY OF ETH-**
9 **ANOL BLENDS AND BIO-DIE-**
10 **SEL**

11 **SEC. 201. ETHANOL-BLEND FUEL INFRASTRUCTURE.**

12 Section 211(o) of the Clean Air Act (42 U.S.C.
13 7545(o)) is amended by adding at the end the following:

14 “(11) INSTALLATION OF ETHANOL-BLEND AND
15 BIO-DIESEL FUEL PUMPS BY COVERED OWNERS AT
16 STATIONS.—

17 “(A) DEFINITIONS.—In this paragraph:

18 “(i) COVERED OWNER.—The term
19 ‘covered owner’ means any person that, in-
20 dividually or together with any other per-
21 son with respect to which the person has
22 an affiliate relationship or significant own-
23 ership interest, owns 1 or more retail sta-
24 tion outlets, as determined by the Sec-
25 retary.

1 “(ii) ETHANOL-BLEND FUEL.—The
2 term ‘ethanol-blend fuel’ means a blend of
3 gasoline at least 30 percent of the content
4 of which is derived from renewable fuel.

5 “(iii) BIO-DIESEL BLEND FUEL.—The
6 term ‘bio-diesel blend fuel’ means a blend
7 of diesel at least 5 percent of the content
8 of which is derived from bio-diesel.

9 “(iv) SECRETARY.—The term ‘Sec-
10 retary’ means the Secretary of Energy,
11 acting in consultation with the Adminis-
12 trator and the Secretary of Agriculture.

13 “(B) REGULATIONS.—The Secretary shall
14 promulgate regulations to ensure that by 2009
15 each covered owner installs or otherwise makes
16 available 1 or more pumps that dispense eth-
17 anol-blend fuel and one or more pumps that
18 dispense bio-diesel blend fuel (including any
19 other equipment necessary, such as tanks, to
20 ensure that the pumps function properly) at re-
21 tail station outlets of the covered owner.

22 “(C) FINANCIAL RESPONSIBILITY.—In
23 promulgating regulations under subparagraph
24 (C), the Secretary shall ensure that each cov-
25 ered owner described in that subparagraph as-

1 sumes full financial responsibility for the costs
2 of installing or otherwise making available the
3 pumps described in that subparagraph and any
4 other equipment necessary (including tanks) to
5 ensure that the pumps function properly.”.

6 **SEC. 202. FREEDOM FOR FUEL FRANCHISERS.**

7 (a) PROHIBITION ON RESTRICTION OF INSTALLA-
8 TION OF ALTERNATIVE FUEL PUMPS.—

9 (1) IN GENERAL.—Title I of the Petroleum
10 Marketing Practices Act (15 U.S.C. 2801 et seq.) is
11 amended by adding at the end the following:

12 **“SEC. 107. PROHIBITION ON RESTRICTION OF INSTALLA-**
13 **TION OF ETHANOL BLEND AND BIO-DIESEL**
14 **FUEL PUMPS.**

15 “(a) DEFINITION.—In this section:

16 “(1) ALTERNATIVE FUEL.—The term ‘alter-
17 native blend fuel’ means any fuel—

18 “(A) at least 30 percent of the volume of
19 which consists of ethanol; or

20 “(B) any mixture of bio-diesel (as defined
21 in section 40A(d)(1) of the Internal Revenue
22 Code of 1986) and diesel fuel (as defined in
23 section 4083(a)(3) of the Internal Revenue
24 Code of 1986), determined without regard to

1 any use of kerosene and containing at least 5
2 percent bio-diesel.

3 “(2) FRANCHISE-RELATED DOCUMENT.—The
4 term ‘franchise-related document’ means—

5 “(A) a franchise under this Act; and

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

9 “(b) PROHIBITIONS.—

10 “(1) IN GENERAL.—Notwithstanding any provi-
11 sion of a franchise-related document in effect on the
12 date of enactment of this section, no franchisee or
13 affiliate of a franchisee shall be restricted from—

14 “(A) installing on the marketing premises
15 of the franchisee an alternative blend fuel
16 pump;

17 “(B) converting an existing tank and
18 pump on the marketing premises of the
19 franchisee for alternative blend fuel use;

20 “(C) advertising (including through the
21 use of signage or logos) the sale of any alter-
22 native blend fuel; or

23 “(D) selling alternative blend fuel in any
24 specified area on the marketing premises of the
25 franchisee (including any area in which a name

1 or logo of a franchisor or any other entity ap-
2 pears).

3 “(2) ENFORCEMENT.—Any restriction de-
4 scribed in paragraph (1) that is contained in a fran-
5 chise-related document and in effect on the date of
6 enactment of this section—

7 “(A) shall be considered to be null and
8 void as of that date; and

9 “(B) shall not be enforced under section
10 105.

11 “(c) EXCEPTION TO 3-GRADE REQUIREMENT.—No
12 franchise-related document that requires that 3 grades of
13 gasoline be sold by the applicable franchisee shall prevent
14 the franchisee from selling an alternative blend fuel in lieu
15 of 1 grade of gasoline.”.

16 (2) CONFORMING AMENDMENTS.—

17 (A) IN GENERAL.—Section 101(13) of the
18 Petroleum Marketing Practices Act (15 U.S.C.
19 2801(13)) is amended by adjusting the indenta-
20 tion of subparagraph (C) appropriately.

21 (B) TABLE OF CONTENTS.—The table of
22 contents of the Petroleum Marketing Practices
23 Act (15 U.S.C. 2801 note) is amended—

24 (i) by inserting after the item relating
25 to section 106 the following:

“Sec. 107. Prohibition on restriction of installation of ethanol blend and bio-diesel fuel pumps.”;

1 and

2 (ii) by striking the item relating to
3 section 202 and inserting the following:

“Sec. 202. Automotive fuel rating testing and disclosure requirements.”.

4 (b) APPLICATION OF GASOHOL COMPETITION ACT
5 OF 1980.—Section 26 of the Clayton Act (15 U.S.C. 26a)
6 is amended—

7 (1) by redesignating subsection (c) as sub-
8 section (d);

9 (2) by inserting after subsection (b) the fol-
10 lowing:

11 “(c) RESTRICTION PROHIBITED.—For purposes of
12 subsection (a), restricting the right of a franchisee to in-
13 stall on the premises of that franchisee ethanol blend or
14 bio-diesel blend fuel pumps (within the meaning of section
15 107 of the Petroleum Marketing Practices Act (15 U.S.C.
16 2801 et seq.)) shall be considered an unlawful restric-
17 tion.”; and

18 (3) in subsection (d) (as redesignated by para-
19 graph (1))—

20 (A) by striking “(d) As used in this sec-
21 tion,” and inserting the following: “section—

22 “(1) the term”;

1 (B) by striking the period at the end and
 2 inserting “; and”; and

3 (C) by adding at the end the following:

4 “(2) the term ‘gasohol’ includes any blend of
 5 ethanol and gasoline.”.

6 (c) EFFECTIVE DATE.—The amendments made by
 7 this section shall take effect on January 1, 2009.

8 **SEC. 203. CERTIFICATION OF ETHANOL AND BIO-DIESEL**
 9 **BLEND FUELS.**

10 The Administrator of the Environmental Protection
 11 Agency shall, as promptly as practicable but not later than
 12 January 1, 2009, promulgate such regulations and take
 13 such other actions as may be necessary under section
 14 211of the Clean Air Act to provide for the certification
 15 of motor vehicle fuels containing at least 30 percent eth-
 16 anol and motor vehicle fuels containing at least 5 percent
 17 bio-diesel, notwithstanding section 221(f) or (h) of such
 18 Act or any other provision of law.

19 **TITLE III—TAX PROVISIONS**

20 **SEC. 301. EXTENSION OF CREDIT FOR ALCOHOL USED AS**
 21 **FUEL.**

22 (a) IN GENERAL.—

23 (1) CREDIT AGAINST INCOME TAX.—

24 (A) TERMINATION GENERALLY.—Para-
 25 graph (1) of section 40(e) of the Internal Rev-

1 enue Code of 1986 (relating to termination) is
2 amended—

3 (i) by striking “December 31, 2010”
4 in subparagraph (A) and inserting “De-
5 cember 31, 2012”, and

6 (ii) by striking “January 1, 2011” in
7 subparagraph (B) and inserting “January
8 1, 2013”.

9 (B) REDUCED RATE FOR ETHANOL
10 BLENDERS.—Subsection (h) of section 40 of
11 such Code (relating to reduced credit for eth-
12 anol blenders) is amended—

13 (i) by striking “2010” in paragraph
14 (1) and inserting “2012”, and

15 (ii) by striking “2010” in the table in
16 paragraph (2) and inserting “2012”.

17 (2) CREDIT AGAINST EXCISE TAX.—Paragraph
18 (5) of section 6426(b) of such Code (relating to ter-
19 mination) is amended by striking “December 31,
20 2010” and inserting “December 31, 2012”.

21 (3) PAYMENTS FOR FUEL USED IN TRADE OR
22 BUSINESS.—Subparagraph (A) of section 6427(e)(5)
23 of such Code (relating to termination) is amended by
24 striking “December 31, 2010” and inserting “De-
25 cember 31, 2012”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act.

4 **SEC. 302. EXTENSION OF BIO-DIESEL AND RENEWABLE DIE-**
5 **SEL CREDIT.**

6 (a) IN GENERAL.—

7 (1) CREDIT AGAINST INCOME TAX.—Subsection
8 (g) of section 40A of the Internal Revenue Code of
9 1986 (relating to termination) is amended by strik-
10 ing “December 31, 2008” and inserting “December
11 31, 2012”.

12 (2) CREDIT AGAINST EXCISE TAX.—Paragraph
13 (6) of section 6426(c) of such Code is amended by
14 striking “December 31, 2010” and inserting “De-
15 cember 31, 2012”.

16 (3) PAYMENTS FOR FUEL USED IN TRADE OR
17 BUSINESS.—Subparagraph (B) of section 6427(e)(5)
18 of such Code is amended by striking “December 31,
19 2008” and inserting “December 31, 2012”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall take effect on the date of the enactment
22 of this Act.

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