

115TH CONGRESS  
2D SESSION

# S. 2886

To amend the Energy Policy and Conservation Act to reinstate the ban on the export of crude oil and natural gas produced in the United States, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 21, 2018

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Energy Policy and Conservation Act to reinstate the ban on the export of crude oil and natural gas produced in the United States, 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 “Block All New Oil Ex-  
5 ports Act” or the “BAN Oil Exports Act”.

1 **SEC. 2. DOMESTIC USE OF ENERGY SUPPLIES AND RE-**  
2 **LATED MATERIALS AND EQUIPMENT.**

3 (a) IN GENERAL.—The Energy Policy and Conserva-  
4 tion Act (42 U.S.C. 6201 et seq.) is amended by inserting  
5 after section 101 the following:

6 **“SEC. 103. DOMESTIC USE OF ENERGY SUPPLIES AND RE-**  
7 **LATED MATERIALS AND EQUIPMENT.**

8 “(a) EXPORT RESTRICTIONS.—The President, by  
9 rule, under such terms and conditions as the President  
10 determines to be appropriate and necessary to carry out  
11 the purposes of this Act, may restrict exports of—

12 “(1) coal, petroleum products, natural gas, or  
13 petrochemical feedstocks; and

14 “(2) supplies of materials or equipment that the  
15 President determines to be necessary—

16 “(A) to maintain or further exploration,  
17 production, refining, or transportation of energy  
18 supplies; or

19 “(B) for the construction or maintenance  
20 of energy facilities within the United States.

21 “(b) PROHIBITION OF EXPORT OF CRUDE OIL AND  
22 NATURAL GAS.—

23 “(1) RULE.—Subject to paragraph (2), the  
24 President shall exercise the authority provided under  
25 subsection (a) to promulgate a rule prohibiting the

1 export of crude oil and natural gas produced in the  
2 United States.

3 “(2) EXEMPTIONS.—

4 “(A) IN GENERAL.—In accordance with  
5 subparagraph (A), the President may exempt  
6 from a prohibition on the export of crude oil  
7 and natural gas under paragraph (1) any crude  
8 oil or natural gas exports that the President de-  
9 termines to be consistent with—

10 “(i) the national interest; and

11 “(ii) the purposes of this Act.

12 “(B) REQUIREMENTS.—An exemption  
13 from a rule prohibiting crude oil or natural gas  
14 exports under paragraph (1)—

15 “(i) shall be—

16 “(I) included in the rule; or

17 “(II) provided for in an amend-  
18 ment to the rule; and

19 “(ii) may be based on—

20 “(I) the purpose for export;

21 “(II) the class of seller or pur-  
22 chaser;

23 “(III) the country of destination;

24 or

1                   “(IV) any other reasonable clas-  
2                   sification or basis that the President  
3                   determines to be—

4                               “(aa) appropriate; and

5                               “(bb) consistent with—

6                                       “(AA) the national in-  
7                                       terest; and

8                                       “(BB) the purposes of  
9                                       this Act.

10                   “(c) IMPOSITION OF RESTRICTIONS.—

11                               “(1) IN GENERAL.—In order to implement any  
12                               rule promulgated under subsection (a), the President  
13                               may direct the Secretary of Commerce to impose  
14                               such restrictions as are specified in the rule on ex-  
15                               ports of—

16                                       “(A) coal, petroleum products, natural gas,  
17                                       or petrochemical feedstocks; and

18                                       “(B) supplies of materials and equipment  
19                                       described in paragraph (2) of that subsection.

20                               “(2) PROCEDURES.—The Secretary shall im-  
21                               pose restrictions under paragraph (1) pursuant to  
22                               procedures established under the Export Administra-  
23                               tion Act of 1979 (50 U.S.C. 4601 et seq.) (as con-  
24                               tinued in effect pursuant to the International Emer-

1 agency Economic Powers Act (50 U.S.C. 1701 et  
2 seq.)).

3 “(3) EFFECT OF POLICY DECLARATION.—The  
4 Secretary shall impose restrictions under paragraph  
5 (1) without regard to the declaration under section  
6 3(2)(C) of the Export Administration Act of 1979  
7 (50 U.S.C. 4062(2)(C)) (as continued in effect pur-  
8 suant to the International Emergency Economic  
9 Powers Act (50 U.S.C. 1701 et seq.)) that export  
10 controls be imposed only to the extent necessary to  
11 reduce the serious inflationary impact of foreign de-  
12 mand.

13 “(d) RESTRICTIONS AND NATIONAL INTEREST.—  
14 Any finding by the President pursuant to subsection (a)  
15 or (b) and any action taken by the Secretary of Commerce  
16 pursuant to those subsections shall take into account the  
17 national interest as related to the need to leave uninter-  
18 rupted or unimpaired—

19 “(1) exchanges in similar quantity for conven-  
20 ience or increased efficiency of transportation with  
21 persons or the government of a foreign state;

22 “(2) temporary exports for convenience or in-  
23 creased efficiency of transportation across parts of  
24 an adjacent foreign state before reentering the  
25 United States; and

1           “(3) the historical trading relations of the  
2 United States with Canada and Mexico.

3           “(e) WAIVER OF NOTICE AND COMMENT PERIOD.—

4           “(1) IN GENERAL.—Subject to paragraph (2),  
5 subchapter II of chapter 5 of title 5, United States  
6 Code, shall apply with respect to the promulgation  
7 of any rule pursuant to this section.

8           “(2) WAIVER.—

9           “(A) IN GENERAL.—The President may  
10 waive with respect to the promulgation of any  
11 rule pursuant to this section the notice and  
12 comment provisions of subchapter II of chapter  
13 5 of title 5, United States Code, only if the  
14 President determines that compliance with the  
15 requirements may seriously impair the ability of  
16 the President to impose effective and timely  
17 prohibitions on exports.

18           “(B) OPPORTUNITY FOR COMMENT.—If  
19 the notice and comment provisions of sub-  
20 chapter II of chapter 5 of title 5, United States  
21 Code, are waived under subparagraph (A) with  
22 respect to a rule promulgated under this sec-  
23 tion, the President shall provide interested per-  
24 sons an opportunity to comment on the rule as

1           soon as practicable after the date on which the  
2           rule is promulgated.

3           “(3) ENFORCEMENT AND PENALTY PROVI-  
4           SIONS.—If the President determines to request the  
5           Secretary of Commerce to impose specified restric-  
6           tions pursuant to subsection (c), the enforcement  
7           and penalty provisions of the Export Administration  
8           Act of 1979 (50 U.S.C. 4601 et seq.) (as continued  
9           in effect pursuant to the International Emergency  
10          Economic Powers Act (50 U.S.C. 1701 et seq.))  
11          shall apply to any violation of the restrictions.”.

12          (b) CLERICAL AND CONFORMING AMENDMENTS.—

13                 (1) CLERICAL AMENDMENT.—The table of con-  
14          tents for the Energy Policy and Conservation Act  
15          (42 U.S.C. prec. 6201) is amended by inserting be-  
16          fore the item relating to section 104 the following:

“103. Domestic use of energy supplies and related materials and equipment.”.

17                 (2) CONFORMING AMENDMENT.—Section 101  
18          of division O of the Consolidated Appropriations Act,  
19          2016 (42 U.S.C. 6212a), is amended by striking  
20          subsections (b) through (d).

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