Public Law 96-425
96th Congress

An Act

To amend title V of the Motor Vehicle Information and Cost Savings Act to reduce administrative burdens on low volume automobile manufacturers, to encourage an increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carryforward or carryback of credits earned under the Act, and for other purposes.

Oct. 10, 1980
[S. 2475]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Automobile Fuel Efficiency Act of 1980.
15 USC 1901 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Automobile Fuel Efficiency Act of 1980".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Fuel efficiency standards applicable to small manufacturers.
Sec. 4. Modification of local content requirements to encourage domestic production of fuel efficient automobiles.
Sec. 5. Adjustments regarding standards for 4-wheel drive, light-duty trucks.
Sec. 6. Determinations of unlawful conduct; 3-year carryforward and carryback.
Sec. 7. Exemptions for emergency vehicles.
Sec. 8. Technical, clerical, and conforming amendments.
Sec. 9. Effective date.

SEC. 2. PURPOSES.

15 USC 2001 note.

It is the purpose of this Act—

(1) to amend certain Federal automobile fuel economy requirements to improve fuel efficiency, and thereby facilitate conservation of petroleum and reduce petroleum imports, and

(2) to encourage full employment in the domestic automobile manufacturing sector.

SEC. 3. FUEL EFFICIENCY STANDARDS APPLICABLE TO SMALL MANUFACTURERS.

Applications for exemption and alternative standards.

(a) STANDARDS.—(1) Section 502(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(c)) is amended by inserting "(1)" after "(c)", and by adding at the end thereof the following new paragraph:

"(2) Any manufacturer may elect in any application submitted under paragraph (1) to have the applications for, and administrative determinations regarding, exemptions and alternative average fuel economy standards be consolidated for two or more of the model years after model year 1980 and before model year 1986. The Secretary may grant an exemption and set an alternative standard or standards for all model years covered by such application.".

15 USC 2002 note.

(2) Any application filed for model year 1981 under section 502(c) of such Act before the effective date of this Act may be amended by the applicant to make the election allowed under the amendment made by paragraph (1) and have such application apply for the model years covered by the election. Additional information shall not be required in connection with such application for the years covered by such

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election except information which the Secretary of Transportation may specifically request.

Review.
15 USC 2002 note.
15 USC 2002.

(3)(A) The Secretary of Transportation shall review the requirements and procedures established pursuant to section 502(c)(1) of such Act (as redesignated by this subsection) as soon as practicable after the date of the enactment of this Act and modify such requirements and procedures to the maximum extent practicable in order to further reduce administrative burdens on such applicants and the Secretary, and expedite determinations regarding such applications.

Notification of Congress.
15 USC 2012.

(B) The Secretary shall notify the Congress of the review and actions taken or to be taken under this paragraph in the first annual report to the Congress which is made under section 512 of such Act after the completion of such review.

(b) CERTAIN REPORTING REQUIREMENTS.—Section 505(a) of such Act (15 U.S.C. 2005(a)) is amended by inserting at the end thereof the following new paragraph:

"(4) The provisions of this subsection shall not apply to any manufacturer for any model year for which that manufacturer is subject to an alternative average fuel economy standard under section 502(c).".

SEC. 4. MODIFICATION OF LOCAL CONTENT REQUIREMENTS TO ENCOURAGE DOMESTIC PRODUCTION OF FUEL EFFICIENT AUTOMOBILES.

Passenger automobile standards, exemption.

(a) CERTAIN NEW DOMESTIC MANUFACTURERS.—(1) Section 503(b) of such Act (15 U.S.C. 2003(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) After consideration of a petition (and comments thereon) for an exemption from the provisions of paragraph (1) filed by a manufacturer, the Secretary shall, by order, grant an exemption from such provisions for passenger automobiles manufactured by that manufacturer during the period provided for in such order, unless the Secretary finds, after notice and reasonable opportunity for written or oral comment, that the proposed exemption would, for such period, result in reduced employment in the United States related to motor vehicle manufacturing.

"(B) Any exemption granted under subparagraph (A) shall be effective for a period of 5 model years or, at the request of the manufacturer, such longer period as the Secretary may provide, as specified in the order.

"(C) An exemption granted under subparagraph (A) for any manufacturer shall not be effective unless the manufacturer—

"(i) began automobile production or assembly in the United States after December 22, 1975, and before May 1, 1980; or

"(ii) began automobile production or assembly in the United States on or after May 1, 1980, and has engaged in such production or assembly in the United States for at least one model year ending on or before December 31, 1985.

Publication in Federal Register.

"(D)(i) Any decision by the Secretary to grant or deny an exemption under subparagraph (A) shall be made, and notice thereof published in the Federal Register, not later than 90 days after the date of the petition for that exemption. The Secretary may extend such period to a specified date if the Secretary publishes notice thereof in the Federal Register, together with the reasons for such extension. In no event may such period be extended beyond the 150th day after the date of the petition for such exemption.

"(ii) The period for written or oral comment provided in subparagraph (A) for any petition shall end not later than 60 days after the

filing of the petition, except that such period may be extended by the Secretary for not to exceed an additional 30 days. If the Secretary fails to make a decision pursuant to this paragraph within the period for a decision in clause (i)—

"(I) the petition shall be deemed to have been granted; and

"(II) the Secretary, within 30 days after the end of such decision period, shall submit a written statement to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives setting forth the reasons for failing to decide within such decision period.

Report to congressional committees.

"(E)(i) Any person adversely affected by a decision of the Secretary denying or granting an exemption pursuant to this paragraph may, not later than 30 days after publication of the notice of such decision, file a petition of review of such decision in the United States Court of Appeals for the District of Columbia. Such court shall have exclusive jurisdiction to review such decision, in accordance with section 706(2)(A) through (D) of title 5, of the United States Code, and to affirm, remand, or set aside the decision of the Secretary.

Judicial review of exemption application decisions.

"(ii) Any such proceeding shall be assigned for a hearing and completed at the earliest possible date and shall be expedited in every possible way by such court. The court shall render its decision in any such proceeding within 60 days after the date of filing the petition for review unless the court determines that a longer period of time is necessary to satisfy the requirements of the Constitution of the United States.

"(iii) The judgment of the court affirming, remanding, or setting aside, in whole or in part, any such decision shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code. Application therefor shall be made within 30 days after entry of such judgment.

USC prec. title 1.
Review by Supreme Court.

"(iv) Notwithstanding any other provision of law, a decision of the Secretary on an exemption pursuant to this paragraph shall not be subject to judicial or administrative review except as provided in this paragraph.

"(F) Notwithstanding section 502(l), in the case of any model year for which an exemption under this subsection is effective for any manufacturer—

15 USC 2002.
Post, p. 1826.

"(i) no credit may be earned under section 502(l)(1)(B) by the manufacturer; and

"(ii) no credit may be made available under section 502(l)(1)(C) for the manufacturer.".

(2) Section 512 of such Act (15 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(c)(1) After an exemption has been granted under section 503(b)(3), the Secretary and the Secretary of Labor shall annually conduct a joint examination of the extent to which the amendment made to section 503(b) by section 4(a)(1) of the Automobile Fuel Efficiency Act of 1980—

Annual joint examination and report to Congress.
15 USC 2003.

"(A) achieves the purposes of that Act and this title, including whether such amendment has promoted employment in the United States related to motor vehicle manufacturing,

"(B) has not caused undue harm to the motor vehicle manufacturing sector in the United States, and

"(C) has permitted any manufacturer that has assembled passenger automobiles which are considered domestically manufactured under section 503(b)(2)(E) to thereafter assemble in the

United States passenger automobiles of the same model type which have less than 75 percent of their value added in the United States or Canada, together with the reasons for such action.

"(2) The Secretary shall include the results of such examination in each annual report that is made to the Congress under subsection (a) more than 180 days after an exemption has been granted under section 503(b)(3) of this subsection, or transmit the results of such examination directly to the Congress before such a report in any case in which circumstances so warrant.".

Manufacturer's production plan.

(b) TRANSITION PROVISIONS FOR CERTAIN NEW DOMESTIC PRODUCTION.—Section 503(b) of such Act (15 U.S.C. 2003(b)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) If a plan has been submitted by a manufacturer and approved by the Secretary under subparagraph (B), the EPA Administrator shall for each of the four model years covered by such plan include under paragraph (1)(A) (and exclude under paragraph (1)(B)) with respect to that manufacturer not more than 150,000 passenger automobiles which are manufactured by that manufacturer but which do not qualify as domestically manufactured if—

"(i) the model type or types involved have not previously been domestically manufactured;

"(ii) at least 50 percent of the cost to the manufacturer of each such automobile is attributable to value added in the United States or Canada;

"(iii) in the case of any such automobile the assembly of which is completed in Canada, that automobile is imported into the United States not later than 30 days following the end of the model year involved; and

"(iv) such automobile model type or types are domestically manufactured before the close of the fourth model year covered by such plan.

"(B)(i) A manufacturer may submit to the Secretary for approval a plan, including supporting material, which shall set forth the actions, and the dates by which such actions are to be taken, which will assure that the automobile model type or types referred to in subparagraph (A) will be domestically manufactured before the end of the fourth model year covered by such plan.

"(ii) The Secretary shall promptly consider and act upon any plan submitted under this subparagraph. The Secretary shall approve any such plan unless—

"(I) the Secretary finds that the plan is inadequate to meet the requirements of this paragraph, or

"(II) the manufacturer has previously submitted a plan which has been approved by the Secretary under this paragraph.

"(C) This paragraph shall only apply with respect to model years beginning after model year 1980.".

(c) CONFORMING AMENDMENTS.—(1) Section 501(8) of such Act (15 U.S.C. 2001(8)) is amended by adding at the end thereof the following new sentence: "Such term also includes any predecessor or successor of such a manufacturer to the extent provided under rules which the Secretary shall prescribe.".

(2) Section 503(b)(1) of such Act (15 U.S.C. 2003(b)(1)) is amended—

(A) in subparagraph (A), by inserting "and passenger automobiles which are included within this category pursuant to paragraph (3)" after "manufactured by such manufacturer"; and

(B) in subparagraph (B), by inserting "and which are not included in the domestic category pursuant to paragraph (3)" after "manufactured by such manufacturer".

(3) Section 503(b)(2)(F) of such Act (15 U.S.C. 2003(b)(2)) is amended by striking out "or 1979," and inserting in lieu thereof "or any subsequent model year,".

SEC. 5. ADJUSTMENTS REGARDING STANDARDS FOR 4-WHEEL DRIVE, LIGHT-DUTY TRUCKS.

Section 502 of such Act (15 U.S.C. 2002), as amended, is further amended by adding at the end thereof the following new subsection:

Average fuel economy standards, impact examinations.

"(k)(1) On the petition of any manufacturer for any model year beginning after model year 1981 and before model year 1986, the Secretary may conduct an examination of the impacts on that manufacturer or a class of manufacturers of any standard under subsection (b) applicable to 4-wheel drive automobiles. If after consideration of the results of that examination the Secretary finds in accordance with paragraph (2) that the manufacturer has demonstrated that such manufacturer or class of manufacturers would not otherwise be able to comply with such standard for that model year as it applies to 4-wheel drive automobiles without causing severe economic impacts, such as plant closures or reduction in employment in the United States related to motor vehicle manufacturing, the Secretary shall, by order, make an adjustment or otherwise provide relief regarding—

"(A) the manner by which the average fuel economy of that manufacturer or class of manufacturers is calculated for purposes of that standard as it applies to 4-wheel drive automobiles, or

"(B) other aspects regarding the application of that standard to the manufacturer or class of manufacturers with respect to such automobiles to the extent consistent with the provisions of this title.

"(2) Any finding by the Secretary under paragraph (1) shall be made (A) after notice and a reasonable opportunity for written or oral comment, and (B) after consideration of the benefits available under the amendments made by the Automobile Fuel Efficiency Act of 1980.

Limitation.

"(3) The authority of the Secretary under this subsection to make any adjustment or provide other relief shall not be effective for any model year after model year 1985.

Notification of Congress.
15 USC 2012.

"(4) The Secretary shall notify the Congress of any adjustment or other relief provided under this subsection in the first annual report submitted to the Congress under section 512 after the order is issued providing for that adjustment or relief.

Publication in Federal Register.

"(5)(A) Any final decision of the Secretary under this subsection shall be made, and notice thereof published in the Federal Register, not later than 120 days after the date of the petition involved. The Secretary may extend such period to a specified date if the Secretary publishes notice thereof in the Federal Register, together with the reasons for such extension. Any such decision by the Secretary shall become final 30 days after the publication of the notice of final decision unless a petition for judicial review is filed under subparagraph (B).

Review.

"(B) Any person adversely affected by such a decision may, not later than 30 days after publication of notice of such decision, file a petition for review of such decision with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides, or in which the principal place of business of such

person is located. The United States court of appeals involved shall have jurisdiction to review such decision in accordance with section 706(2) (A) through (D) of title 5, United States Code, and to affirm, remand, or set aside the decision of the Secretary. Except as otherwise provided in this subparagraph, section 504 (c) and (d) shall apply to such review to the same extent and manner as it applies with respect to review of any rule prescribed under this section or section 501, 503, or 506.

15 USC 2004.

15 USC 2001, 2003, 2006.

"(6) The availability of any adjustment or other relief under this subsection shall not be taken into account in prescribing standards under subsection (b).".

SEC. 6. DETERMINATIONS OF UNLAWFUL CONDUCT; 3-YEAR CARRYFORWARD AND CARRYBACK.

(a) UNLAWFUL CONDUCT.—Section 507 of such Act (15 U.S.C. 2007) is amended—

(1) by striking out "The" and inserting in lieu thereof "(a) Subject to subsection (b), the"; and

(2) by adding at the end thereof the following new subsection:

"(b) A manufacturer shall not be considered to have engaged in unlawful conduct, or to have failed to comply with any fuel economy standard applicable to such manufacturer under section 502, if the average fuel economy of such manufacturer, after taking into account the credits then available to the manufacturer under section 502(l), would result in the applicable standard being met or exceeded.".

15 USC 2002.

(b) 3-YEAR CARRYFORWARD AND CARRYBACK OF CREDITS.—Section 502 of such Act (15 U.S.C. 2002), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(l)(1)(A) For purposes of this part, credits under this subsection shall be considered to be available to any manufacturer upon the completion of the model year in which such credits are earned under subparagraph (B) unless under subparagraph (C) the credits are made available for use at a time prior to the model year in which earned.

"(B) Whenever the average fuel economy of the passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard established under subsection (a) or (c) (determined by the Secretary without regard to any adjustment under subsection (d) or any credit under this subsection), such manufacturer shall be entitled to a credit, calculated under subparagraph (C), which—

"(i) shall be available to be taken into account with respect to the average fuel economy of that manufacturer for any of the three consecutive model years immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

"(ii) to the extent that such credit is not so taken into account pursuant to clause (i), shall be available to be taken into account with respect to the average fuel economy of that manufacturer for any of the three consecutive model years immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

Manufacturer's plan, submittal.

"(C)(i) At any time prior to the end of any model year, a manufacturer which has reason to believe that its average fuel economy for passenger automobiles will be below such applicable standard for that model year may submit a plan demonstrating that such manufacturer will earn sufficient credits under subparagraph (B) within

the next 3 model years which when taken into account would allow the manufacturer to meet that standard for the model year involved.

"(ii) Such credits shall be available for the model year involved subject to—

"(I) the Secretary approving such plan; and

"(II) the manufacturer earning such credits in accordance with such plan.

"(iii) The Secretary shall approve any such plan unless the Secretary finds that it is unlikely that the plan will result in the manufacturer earning sufficient credits to allow the manufacturer to meet the standard for the model year involved.

"(iv) The Secretary shall provide notice to any manufacturer in any case in which the average fuel economy of that manufacturer is below the applicable standard under subsection (a) or (c), after taking into account credits available under subparagraph (B)(i), and afford the manufacturer a reasonable period (of not less than 60 days) in which to submit a plan under this subparagraph.

Substandard average fuel economy, notice.

"(D) The amount of credit to which a manufacturer is entitled under this paragraph shall be equal to—

"(i) the number of tenths of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer in the model year in which the credit is earned pursuant to this paragraph exceeds the applicable average fuel economy standard established under subsection (a) or (c), multiplied by

"(ii) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(E) The Secretary shall take credits into account for any model year on the basis of the number of tenths of a mile per gallon by which the manufacturer involved was below the applicable average fuel economy standard for that model year and the volume of passenger automobiles manufactured that model year by the manufacturer. Credits once taken into account for any model year shall not thereafter be available for any other model year. Prior to taking any credit into account, the Secretary shall provide the manufacturer involved with written notice and reasonable opportunity to comment thereon.

Notice.

"(2) Credits for manufacturers of automobiles which are not passenger automobiles shall be earned and be available to be taken into account for model years in which the average fuel economy of such class of automobiles is below the applicable average fuel economy standard established under subsection (b) to the same extent and in the same manner as provided for under paragraph (1). Not later than 60 days after the date of the enactment of this subsection, the Secretary shall prescribe regulations to carry out the provisions of this paragraph.

Regulations.

"(3) Whenever a civil penalty has been assessed and collected under section 508 from a manufacturer who is entitled to a credit under this subsection, the Secretary of the Treasury shall refund to such manufacturer the amount of the civil penalty so collected to the extent that penalty is attributable to credits available under this subsection.

Civil penalties, refunds.
15 USC 2008.

"(4) The Secretary may prescribe rules for purposes of carrying out the provisions of this subsection.".

Rules.

(c) CONFORMING AMENDMENTS.—(1) Subsections (a) and (b) of section 508 of such Act (15 U.S.C. 2008) are each amended by striking out "507(1)", "507(2)", "507(3)", and "507 (1) or (2)" each place such terms

appear and inserting in lieu thereof "507(a)(1)", "507(a)(2)", "507(a)(3)", and "507(a) (1) or (2)", respectively.

(2) Section 508(a) of such Act (15 U.S.C. 2008(a)) is amended by striking out paragraph (3).

(3) Subparagraphs (A) and (B) of section 508(b)(1) of such Act (15 U.S.C. 2008) are each amended—

(A) by striking out "(i) $5 for each tenth" and inserting in lieu thereof "the amount obtained by multiplying $5 by (i) the number of tenths";

(B) by striking out "by (ii) the total" and inserting in lieu thereof "by the"; and

(C) by striking out the period at the end thereof and inserting in lieu thereof ", reduced by (ii) the credits then available under section 502(l) for such model year".

Ante, p. 1826.

(4) Section 508(d) of such Act (15 U.S.C. 2008(d)) is amended by striking out paragraph (4).

15 USC 2002 note.

(d) EFFECTIVE DATE.—Under such regulations as the Secretary of Transportation shall prescribe, the amendments made by this section shall apply to the 3 model years preceding the model year during which this Act is enacted.

SEC. 7. EXEMPTION FOR EMERGENCY VEHICLES.

Section 502 of such Act (15 U.S.C. 2002) is amended by redesignating subsection (g) and the following two subsections as subsections (h), (i), and (j), respectively, and by inserting after subsection (f) the following new subsection:

"(g)(1) At the election of any manufacturer, the fuel economy of any emergency vehicle shall not be taken into account in applying any fuel economy standard prescribed by or under subsection (a), (b), or (c). Any manufacturer electing to have the provisions of this subsection shall provide written notice of that election to the Secretary and to the Environmental Protection Agency Administrator.

Notice.

"Emergency vehicle."

"(2) For purposes of paragraph (1), the term 'emergency vehicle' means any automobile manufactured primarily for use—

"(A) as an ambulance or combination ambulance-hearse,

"(B) by the United States or by a State or local government for police or other law enforcement purposes, or

"(C) for other emergency uses prescribed by the Secretary of Transportation by regulation.".

SEC. 8. TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS.

(a)(1) The table of contents for such Act is amended by striking out the item relating to part A.

(2) Section 2 of such Act (15 U.S.C. 1901) is amended by striking out "except part A of title V" and inserting in lieu thereof "except title V".

(3) Title V of such Act is amended by striking out the designation relating to part A.

(b) Section 501(9) of such Act (15 U.S.C. 2001(9)) is amended by striking out "manufacturer" and inserting in lieu thereof "manufacture".

(c) Section 502(b) of such Act (15 U.S.C. 2002(b)) is amended by striking out "and shall be" and inserting in lieu thereof "and such standards shall be".

(d) Section 502(d)(3)(E) of such Act (15 U.S.C. 2002(d)(3)(E)) is amended by striking out "subparagraph," and inserting in lieu thereof "subsection,".

(e) Section 503(b)(2)(A)(ii)(I) of such Act (15 U.S.C. 2003(b)(2)(A)(ii)(I)) is amended by striking out "base" the last place it appears.

(f) Section 508(b)(1)(A) of such Act (15 U.S.C. 2008(b)(1)(A)) is amended by inserting before ", shall be" the following "with respect to any model year".

SEC. 9. EFFECTIVE DATE.

15 USC 2001 note.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of the enactment of this Act.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1026 (Comm. on Interstate and Foreign Commerce) and No. 96-1402 (Comm. of Conference).
SENATE REPORT No. 96-642 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 16, considered and passed Senate.
June 3, considered and passed House, amended.
Sept. 26, Senate agreed to conference report.
Sept. 30, House agreed to conference report.