

106TH CONGRESS  
2D SESSION

# S. 2723

To amend the Clean Air Act to permit the Governor of a State to waive the oxygen content requirement for reformulated gasoline, to encourage development of voluntary standards to prevent and control releases of methyl tertiary butyl ether from underground storage tanks, to establish a program to phase out the use of methyl tertiary butyl ether, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 13, 2000

Mr. INHOFE introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Clean Air Act to permit the Governor of a State to waive the oxygen content requirement for reformulated gasoline, to encourage development of voluntary standards to prevent and control releases of methyl tertiary butyl ether from underground storage tanks, to establish a program to phase out the use of methyl tertiary butyl ether, 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,*

1 **SECTION 1. WAIVER OF OXYGEN CONTENT REQUIREMENT**  
2 **FOR REFORMULATED GASOLINE.**

3 Section 211(k)(1) of the Clean Air Act (42 U.S.C.  
4 7545(k)(1)) is amended—

5 (1) by striking “Within 1 year after the enact-  
6 ment of the Clean Air Act Amendments of 1990,”  
7 and inserting the following:

8 “(A) IN GENERAL.—Not later than No-  
9 vember 15, 1991,”; and

10 (2) by adding at the end the following:

11 “(B) WAIVER OF OXYGEN CONTENT RE-  
12 QUIREMENT.—

13 “(i) IN GENERAL.—Notwithstanding  
14 any other provision of this subsection,  
15 upon notification by the Governor of a  
16 State to the Administrator, a Governor  
17 may waive paragraphs (2)(B) and  
18 (3)(A)(v) with respect to gasoline sold or  
19 dispensed in the State.

20 “(ii) TREATMENT AS REFORMULATED  
21 GASOLINE.—In the case of a State for  
22 which the Governor invokes the waiver de-  
23 scribed in clause (i), gasoline that complies  
24 with all provisions of this subsection other  
25 than paragraphs (2)(B) and (3)(A)(v) shall

1 be considered to be reformulated gasoline  
2 for the purposes of this subsection.

3 “(iii) SPECIAL RULE.—Paragraphs  
4 (2)(B) and (3)(A)(v) shall not apply to  
5 gasoline sold or dispensed in a State de-  
6 scribed in subsection (c)(4)(B).

7 “(C) MAINTENANCE OF EMISSION REDUC-  
8 TION BENEFITS.—

9 “(i) REGULATIONS.—Not later than  
10 270 days after the date of enactment of  
11 this subparagraph, the Administrator shall  
12 promulgate regulations consistent with  
13 paragraph (3)(B)(ii) to ensure that the  
14 benefits of toxic air pollutant reductions  
15 under the reformulated gasoline program  
16 under this section are maintained in States  
17 for which a Governor waives the oxygenate  
18 requirement under subparagraph (B)(i).

19 “(ii) REGIONAL DESIGNATIONS.—In  
20 carrying out clause (i), the Administrator,  
21 in cooperation with the Secretary of En-  
22 ergy, shall develop designations for regions  
23 of the United States based on the extent  
24 and location of the gasoline distribution  
25 and supply network in the United States.

1           “(iii) PERFORMANCE STANDARDS.—  
2           The Administrator, in regulations promul-  
3           gated under clause (i), shall use the re-  
4           gional designations developed under clause  
5           (ii) to establish annual average perform-  
6           ance standards for each region based on—

7                   “(I) the phase II reformulated  
8                   gasoline complex model in existence  
9                   on the date of enactment of this sub-  
10                  paragraph; and

11                   “(II) the annual reductions in  
12                   emissions of toxic air pollutants  
13                   achieved in the region under the refor-  
14                   mulated gasoline program during cal-  
15                   endar years 1998 and 1999, as deter-  
16                   mined using compliance survey data.

17           “(iv) APPLICABILITY.—

18                   “(I) IN GENERAL.—The applica-  
19                   ble performance standards under  
20                   clause (iii) shall be applied on an an-  
21                   nual average basis to the manufacture  
22                   of reformulated gasoline that is sold  
23                   or introduced into commerce by a re-  
24                   finery in a State for which the Gov-

1           ernor waives the oxygenate require-  
2           ment under subparagraph (B)(i).

3                   “(II) MORE STRINGENT RE-  
4           QUIREMENTS.—The applicable annual  
5           average regional performance stand-  
6           ards under clause (i) shall not apply  
7           to the extent that any requirement  
8           under section 202(l) or the standards  
9           described in paragraph (3)(B)(ii) are  
10          more stringent.

11                   “(III) SPECIAL RULE.—The reg-  
12          ulations promulgated under clause (i)  
13          shall not apply in a State described in  
14          subsection (c)(4)(B).

15                   “(v) PREPROMULGATION REQUIRE-  
16          MENTS.—Until such time as the regula-  
17          tions under clause (i) are promulgated, the  
18          phase II reformulated gasoline complex  
19          model toxic performance standards in ex-  
20          istence on the date of enactment of this  
21          subparagraph shall remain in effect.”.

1 **SEC. 2. DEVELOPMENT OF ADDITIONAL STANDARDS TO**  
 2 **CONTROL RELEASES OF MTBE FROM UNDER-**  
 3 **GROUND STORAGE TANKS.**

4 Not later than 2 years after the date of enactment  
 5 of this Act, the Administrator of the Environmental Pro-  
 6 tection Agency, in consultation with members of the af-  
 7 fected industries, shall conduct a study and submit to Con-  
 8 gress a report on whether additional standards to prevent  
 9 and control releases of methyl tertiary butyl ether from  
 10 underground storage tanks are necessary.

11 **SEC. 3. CONTROL OF OXYGENATED FUEL ADDITIVES TO**  
 12 **PREVENT AIR OR WATER POLLUTION.**

13 Section 211(c)(1) of the Clean Air Act (42 U.S.C.  
 14 7545(c)(1)) is amended by adding at the end the fol-  
 15 lowing: “The Administrator may control or prohibit the  
 16 introduction into commerce, offering for sale, or sale of  
 17 any oxygenated fuel additive for use in a motor vehicle,  
 18 motor vehicle engine, nonroad engine, or nonroad vehicle,  
 19 if in the judgment of the Administrator the oxygenated  
 20 fuel additive causes or contributes to air pollution or water  
 21 pollution that may reasonably be anticipated to endanger  
 22 the public health or welfare.”.

23 **SEC. 4. LIMITATION ON USE OF MTBE.**

24 (a) SALE OF GASOLINE CONTAINING MTBE.—Sec-  
 25 tion 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is  
 26 amended by adding at the end the following:

1           “(5) LIMITATIONS ON SALE OF GASOLINE CON-  
2           TAINING MTBE.—

3           “(A) IN GENERAL.—Subject to subpara-  
4           graph (B), for the fourth full calendar year that  
5           begins after the date of enactment of this para-  
6           graph and each calendar year thereafter—

7           “(i) the quantity of gasoline sold or  
8           introduced into commerce during the cal-  
9           endar year by a refiner, blender, or im-  
10          porter of gasoline shall contain on average  
11          not more than 1 percent by volume methyl  
12          tertiary butyl ether; and

13          “(ii) a refiner, blender, or importer of  
14          gasoline shall not sell or introduce into  
15          commerce any gasoline that contains more  
16          than an historical level by volume of meth-  
17          yl tertiary butyl ether, as determined by  
18          the Administrator by regulation.

19          “(B) REGULATIONS CONCERNING PHASE-  
20          DOWN.—As soon as practicable after the date  
21          of enactment of this paragraph, the Adminis-  
22          trator shall establish by regulation a program  
23          to phase down the percentage of methyl tertiary  
24          butyl ether contained in gasoline in accordance  
25          with subparagraph (A)(i).

1           “(C) REGULATIONS CONCERNING TRAD-  
2           ING.—

3           “(i) IN GENERAL.—The Administrator  
4           may promulgate regulations to permit re-  
5           finers, blenders, and importers to sell to,  
6           and purchase from, each other authoriza-  
7           tions to sell or introduce into commerce  
8           gasoline containing methyl tertiary butyl  
9           ether in excess of the limitation specified  
10          in subparagraph (A)(i).

11          “(ii) MAXIMUM ANNUAL LIMITA-  
12          TION.—In carrying out clause (i), the Ad-  
13          ministrators shall ensure that the total  
14          quantity of gasoline sold or introduced into  
15          commerce during any calendar year by all  
16          refiners, blenders, or importers contains on  
17          average not more than 1 percent by volume  
18          methyl tertiary butyl ether.”.

19          (b) STATE AUTHORITY TO REVISE IMPLEMENTA-  
20          TION PLAN.—

21          (1) IN GENERAL.—In accordance with section  
22          110 of the Clean Air Act (42 U.S.C. 7410), a State  
23          may submit to the Administrator of the Environ-  
24          mental Protection Agency a State implementation  
25          plan revision that provides for the reduction or

1 elimination of the use of methyl tertiary butyl ether  
2 in gasoline sold or introduced into commerce in the  
3 State if the Governor of the State demonstrates  
4 that—

5 (A) the reduction or elimination would not  
6 cause any significant disruption in the avail-  
7 ability, supply, or price of gasoline in the State;

8 (B) the reduction or elimination is nec-  
9 essary to protect the public health or environ-  
10 ment; and

11 (C) any alternative additive used will not  
12 present an equivalent or greater problem than  
13 any problem posed by the use of methyl tertiary  
14 butyl ether.

15 (2) SPECIAL RULE.—Paragraph (1)—

16 (A) does not apply to a State described in  
17 section 211(c)(4)(B) of the Clean Air Act (42  
18 U.S.C. 7545(c)(4)(B)); and

19 (B) does not limit the authority of such a  
20 State under section 211(c)(4)(B) of that Act to  
21 at any time prescribe and enforce a control or  
22 prohibition respecting methyl tertiary butyl  
23 ether or any other fuel additive.

24 (c) PERMIT APPLICATION ASSISTANCE.—In the case  
25 of any State in which are located 1 or more facilities that

1 produce methyl tertiary butyl ether and that, as a result  
2 of any provision of or amendment made by this Act, apply  
3 for a new permit or permit modification under the Clean  
4 Air Act (42 U.S.C. 7401 et seq.), the Administrator of  
5 the Environmental Protection Agency shall provide to the  
6 State technical assistance and personnel to assist in the  
7 application for or modification of such permits.

8 **SEC. 5. ASSURANCE OF ADEQUATE FUEL SUPPLY.**

9 (a) IN GENERAL.—In order to ensure an adequate  
10 fuel supply for all States, any regulation or modification  
11 of fuel properties promulgated or approved by the Admin-  
12 istrator of the Environmental Protection Agency under  
13 this Act or an amendment made by this Act shall take  
14 into consideration the need for reasonable schedules for  
15 carrying out necessary refinery investment projects and  
16 making appropriate modifications to fuel distribution sys-  
17 tems.

18 (b) FUEL INDUSTRY FLEXIBILITY.—In imple-  
19 menting and enforcing regulations and modifications de-  
20 scribed in subsection (a), the Administrator shall provide  
21 the fuel industry with the flexibility inherent in fuel regu-  
22 lations in effect on the day before the date of enactment  
23 of this Act.

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