

108TH CONGRESS
1ST SESSION

S. 1979

To amend the Internal Revenue Code of 1986 to prevent the fraudulent avoidance of fuel taxes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 25, 2003

Mr. GRASSLEY (for himself and Mr. BAUCUS) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to prevent
the fraudulent avoidance of fuel taxes.

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; ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Fuel Fraud Prevention Act of 2003”.

6 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
7 wise provided, whenever in this Act an amendment or re-
8 peal is expressed in terms of an amendment to, or repeal
9 of, a section or other provision, the reference shall be con-

1 sidered to be made to a section or other provision of the
 2 Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents for
 4 this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—AVIATION JET FUEL

Sec. 101. Taxation of aviation fuel at the rack.

TITLE II—DYED FUEL

Sec. 201. Dye injection equipment.

Sec. 202. Elimination of administrative review for taxable use of dyed fuel.

Sec. 203. Penalty on untaxed adulterated fuel mixtures.

TITLE III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

Sec. 301. Expanded disclosure of records.

Sec. 302. Authority to inspect on-site records.

Sec. 303. Assessable penalty for refusal of entry.

TITLE IV—REGISTRATION AND REPORTING REQUIREMENTS

Sec. 401. Registration of pipeline or vessel operators required for exemption of
 bulk transfers to registered terminals or refineries.

Sec. 402. Display of registration.

Sec. 403. Certain reports filed electronically.

Sec. 404. Failure to register.

Sec. 405. Registration of persons within foreign trade zones.

Sec. 406. Information reporting for persons claiming certain tax benefits.

TITLE V—IMPORTS

Sec. 501. Tax at point of entry where importer not registered.

Sec. 502. Reconciliation of on-loaded cargo to entered cargo.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Tax on sale of diesel fuel whether suitable for use or not in a diesel-
 powered vehicle or train.

Sec. 602. Ultimate vendor refund claims.

Sec. 603. Taxable fuel refunds.

Sec. 604. Two-party exchanges.

Sec. 605. Modifications of tax on use of certain vehicles.

Sec. 606. Dedication of revenues from certain penalties to the Highway Trust
 Fund.

1 **TITLE I—AVIATION JET FUEL**

2 **SEC. 101. TAXATION OF AVIATION FUEL AT THE RACK.**

3 (a) TAX ON REMOVAL, ENTRY, OR SALE.—Section
4 4091(a) (related to tax on sale) is amended to read as
5 follows:

6 “(a) TAX ON REMOVAL, ENTRY, OR SALE.—

7 “(1) IN GENERAL.—There is hereby imposed a
8 tax at the rate specified in subsection (b) on—

9 “(A) the removal of aviation fuel from any
10 refinery,

11 “(B) the removal of aviation fuel from any
12 terminal,

13 “(C) the entry into the United States of
14 any aviation fuel for consumption, use, or
15 warehousing,

16 “(D) the sale of aviation fuel to any person
17 who is not registered under section 4101 unless
18 there was a prior taxable removal or entry of
19 such fuel under subparagraph (A), (B), or (C),
20 and

21 “(E) the sale or use of aviation fuel with
22 respect to which section 4092 applies by a com-
23 mercial aviation registrant.

24 “(2) EXEMPTION FOR BULK TRANSFERS.—The
25 tax imposed by this subsection shall not apply to the

1 removal or entry of aviation fuel transferred in bulk
 2 by pipeline or vessel to a terminal or refinery if the
 3 person removing or entering the aviation fuel, the
 4 operator of such pipeline or vessel, and the operator
 5 of such terminal or refinery are registered under sec-
 6 tion 4101.”.

7 (b) RATE OF TAX.—Paragraph (1) of section
 8 4091(b) is amended by striking “shall be 21.8 cents per
 9 gallon.” and inserting “shall be—

10 “(A) in the case of fuel delivered from a
 11 terminal directly to the fuel tank of an aircraft
 12 for use in commercial aviation or in the case of
 13 a sale or use described in subsection (a)(1)(E),
 14 4.3 cents per gallon, and

15 “(B) in any other case, 21.8 cents per gal-
 16 lon.”.

17 (c) NONTAXABLE USE.—

18 (1) IN GENERAL.—Section 4092 is amended to
 19 read as follows:

20 **“SEC. 4092. EXEMPTIONS.**

21 “(a) NONTAXABLE USES.—No tax shall be imposed
 22 by section 4091 on aviation fuel for use by the purchaser
 23 in a nontaxable use (as defined in section 6427(l)(2)(B))
 24 other than for use in commercial aviation.

1 “(b) USE OF FUEL AS SUPPLIES FOR VESSELS OR
 2 AIRCRAFT.—Notwithstanding subsection (a), no tax shall
 3 be imposed by section 4091 on aviation fuel for use by
 4 a commercial aviation registrant as supplies for vessels or
 5 aircraft (within the meaning of section 4221(d)(3)).”.

6 (2) REFUNDS.—Paragraph (4) of section
 7 6427(l) is amended to read as follows:

8 “(4) CERTAIN TAXES ON FUEL USED IN COM-
 9 Mercial Aviation.—

10 “(A) NO REFUND IN CERTAIN CASES.—In
 11 the case of fuel used in commercial aviation (as
 12 defined in section 4093(c)) (other than supplies
 13 for vessels or aircraft within the meaning of
 14 section 4221(d)(3)), paragraph (1) shall not
 15 apply to so much of the tax imposed by section
 16 4091 as is attributable to—

17 “(i) the Leaking Underground Stor-
 18 age Tank Trust Fund financing rate im-
 19 posed by such section, and

20 “(ii) in the case of fuel purchased
 21 after September 30, 1995, so much of the
 22 rate of tax specified in section 4091(b)(1)
 23 as does not exceed 4.3 cents per gallon.

24 “(B) PAYMENT TO REGISTERED VEN-
 25 DOR.—The amount which would be paid under

1 paragraph (1) after the application of this para-
 2 graph with respect to any fuel shall be paid to
 3 the vendor of such fuel, if such vendor—

4 “(i) is registered under section 4101,
 5 and

6 “(ii) meets the requirements of sub-
 7 paragraph (A), (B), or (D) of section
 8 6416(a)(1).”.

9 (d) DEFINITIONS.—

10 (1) AVIATION FUEL.—Subsection (a) of section
 11 4093 is amended to read as follows:

12 “(a) AVIATION FUEL.—For purposes of this subpart,
 13 the term ‘aviation fuel’ means any fuel, other than avia-
 14 tion-grade gasoline, which is destined for use in an air-
 15 craft.”.

16 (2) COMMERCIAL AVIATION REGISTRANT.—Sub-
 17 section (b) of section 4093 is amended to read as
 18 follows:

19 “(b) COMMERCIAL AVIATION REGISTRANT.—

20 “(1) IN GENERAL.—The term ‘commercial avia-
 21 tion registrant’ means any person who is—

22 “(A) a wholesale distributor,

23 “(B) registered under section 4101 with
 24 respect to the tax imposed by section 4091, and

1 “(C) in the business of commercial avia-
2 tion.

3 “(2) CERTAIN PERSONS TREATED AS COMMER-
4 CIAL AVIATION REGISTRANTS.—Any person to whom
5 aviation fuel is sold at a reduced rate under this
6 subpart shall be treated as a commercial aviation
7 registrant with respect to such fuel.

8 “(3) WHOLESALE DISTRIBUTOR.—For purposes
9 of paragraph (1), the term ‘wholesale distributor’ in-
10 cludes any person who sells aviation fuel to commer-
11 cial registrants, retailers, or to users who purchase
12 in bulk quantities and accept delivery into bulk stor-
13 age tanks. Such term does not include any person
14 who is a producer or importer.”.

15 (3) COMMERCIAL AVIATION.—Section 4093 is
16 amended by adding at the end the following new
17 subsection:

18 “(c) COMMERCIAL AVIATION.—For purposes of this
19 subpart, the term ‘commercial aviation’ means any use of
20 an aircraft other than in noncommercial aviation (as de-
21 fined in section 4041(c)(2)).”.

22 (e) NON-AIRCRAFT USE OF AVIATION FUEL.—

23 (1) IN GENERAL.—Section 4041 (relating to
24 tax on special fuels) is amended by adding at the
25 end the following new subsection:

1 “(n) NON-AIRCRAFT USE OF AVIATION FUEL.—

2 “(1) IN GENERAL.—If any fuel on which a tax
3 was imposed under section 4091 is used other than
4 for fuel in an aircraft, there is hereby imposed a tax
5 in an amount equal to the rate specified in section
6 4081(a)(2)(A)(iii).

7 “(2) REFUND OF INITIAL TAX.—For refund of
8 initial tax paid, see section 6429.”.

9 (2) REFUNDS.—

10 (A) IN GENERAL.—Subchapter B of chap-
11 ter 65 is amended by adding at the end the fol-
12 lowing new section:

13 **“SEC. 6429. AVIATION FUEL USED ON HIGHWAYS.**

14 “(a) IN GENERAL.—If any fuel on which a tax was
15 imposed under section 4091 is also taxed under section
16 4041(n), the Secretary shall pay (without interest) to the
17 ultimate purchaser of such fuel an amount equal to the
18 tax imposed on the fuel under section 4091.

19 “(b) TIME FOR FILING OF CLAIMS.—Rules similar
20 to the rules of paragraphs (1) and (2) of section 6427(i)
21 shall apply with respect to this section.

22 “(c) APPLICABLE LAWS.—Rules similar to the rules
23 of section 6427(j) shall apply with respect to this sec-
24 tion.”.

1 (B) CONFORMING AMENDMENT.—The
 2 table of sections for subchapter B of chapter 65
 3 is amended by inserting at the end the following
 4 new item:

“Sec. 6429. Aviation fuel used on highways.”.

5 (f) FLOOR STOCK TAXES.—

6 (1) IN GENERAL.—On aviation fuel subject to
 7 tax under section 4091 of the Internal Revenue
 8 Code of 1986 which, on January 1, 2004, is held by
 9 a producer for sale or use, with respect to which no
 10 tax has been imposed under such section, and with
 11 respect to which tax would have been imposed under
 12 such section if such section, as amended by this Act,
 13 were applied to such fuel at the time of a prior re-
 14 moval, entry, or sale, there is hereby imposed a tax
 15 at the rate of—

16 (A) in the case of fuel held for use or sale
 17 for use in commercial aviation (within the
 18 meaning of section 4093(c) of the Internal Rev-
 19 enue Code of 1986), 4.4 cents a gallon, and

20 (B) in any other case, 21.9 cents a gallon..

21 (2) DUE DATE OF TAXES.—The taxes imposed
 22 by this subsection shall be paid before February 16,
 23 2004.

24 (3) TRANSFER OF FLOOR STOCK TAX REVE-
 25 NUES TO TRUST FUNDS.—For purposes of deter-

1 mining the amount transferred to any trust fund,
2 the tax imposed by this section shall be treated as
3 imposed by section 4091 of the Internal Revenue
4 Code of 1986—

5 (A) at the Highway Trust Fund financing
6 rate under such section—

7 (i) in the case of fuel taxed under
8 paragraph (1)(A), to the extent of 4.3
9 cents per gallon, and

10 (ii) in any other case, to the extent of
11 21.8 cents per gallon, and

12 (B) at the Leaking Underground Storage
13 Tank Trust Fund financing rate under such
14 section to the extent of 0.1 cents per gallon.

15 (4) DEFINITIONS.—For purposes of this sub-
16 section—

17 (A) PRODUCER.—

18 (i) IN GENERAL.—The term ‘pro-
19 ducer’ includes any person described in
20 clause (ii) and registered under section
21 4101 of the Internal Revenue Code of
22 1986 with respect to the tax imposed by
23 section 4091 of such Code.

1 (ii) PERSONS DESCRIBED.—A person
2 is described in this clause if such person
3 is—

4 (I) a refiner, blender, or whole-
5 sale distributor (as defined in section
6 6416(a)(4)(B) of the Internal Rev-
7 enue Code of 1986) of aviation fuel,
8 or

9 (II) a dealer selling aviation fuel
10 exclusively to producers of aviation
11 fuel.

12 (iii) REDUCED RATE PURCHASERS
13 TREATED AS PRODUCERS.—Any person to
14 whom aviation fuel is sold at a reduced
15 rate under subpart B of part III of chapter
16 32 of such Code shall be treated as the
17 producer of such fuel.

18 (iv) WHOLESALE DISTRIBUTOR.—For
19 purposes of clause (ii), the term ‘wholesale
20 distributor’ includes any person who sells
21 aviation fuel to producers, retailers, or to
22 users who purchase in bulk quantities and
23 accept delivery into bulk storage tanks.
24 Such term does not include any person
25 who (excluding the term ‘wholesale dis-

1 tributor' from clause (ii)) is a producer or
2 importer.”.

3 (B) HELD BY A PRODUCER.—Aviation fuel
4 shall be considered as ‘held by a producer’ if
5 title thereto has passed to such producer
6 (whether or not delivery to the producer has
7 been made).

8 (C) AVIATION FUEL.—The term aviation
9 fuel has the same meaning given such term by
10 section 4093(a) of the Internal Revenue Code
11 of 1986.

12 (g) CONFORMING AMENDMENTS.—

13 (1) Section 4041(c)(1) is amended by striking
14 “if there was a taxable sale of such liquid” and in-
15 serting “if tax was imposed on such liquid”.

16 (2) Section 4041(d) is amended by striking “if
17 there was a taxable sale of such liquid” and insert-
18 ing “if tax was imposed on such liquid”.

19 (3) Section 4082(d)(1) is amended by striking
20 “determines is destined for use as a fuel in an air-
21 craft” and inserting “determines is subject to the
22 provisions of section 4091”.

23 (4) Section 4091(c) is amended—

24 (A) by striking “The rate” in paragraph
25 (1), and inserting “Except in the case of avia-

1 tion fuel to which subsection (b)(1)(A) applies,
2 the rate”,

3 (B) by striking “sale” each place it ap-
4 pears in paragraphs (1), (2), and (5) and in-
5 serting “removal or entry”, and

6 (C) by striking “producer” in paragraph
7 (3) and inserting “refiner”.

8 (5) Section 4091 is amended by striking sub-
9 section (d).

10 (6) Section 6416(a)(4)(B) is amended to read
11 as follows:

12 “(B) WHOLESALE DISTRIBUTOR.—For
13 purposes of subparagraph (A), the term ‘whole-
14 sale distributor’ includes any person who sells
15 any gasoline taxable under section 4081 to pro-
16 ducers, retailers, or to users who purchase in
17 bulk quantities and accept delivery into bulk
18 storage tanks. Such term does not include any
19 person who is a producer or importer. Such
20 term includes any person who makes retail sales
21 of gasoline at 10 or more retail motor fuel out-
22 lets.”.

23 (7) Section 6724(d)(1)(B) is amended by strik-
24 ing clause (xv) and by redesignating clauses (xvi)

1 through (xviii) as clauses (xv) through (xvii), respec-
2 tively.

3 (8)(A) Section 6724(d)(2) is amended by strik-
4 ing clause (W) and by redesignating clauses (X)
5 through (BB) as clauses (W) through (AA), respec-
6 tively.

7 (B) Section 6652(e) is amended by striking “sec-
8 tion 6724(d)(2)(Y)” and inserting “section
9 6724(d)(2)(X)”.

10 (C) Section 6693 (a)(2) is amended by striking
11 “section 6724(d)(2)(X)” and inserting “section
12 6724(d)(2)(W)”.

13 (h) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to aviation fuel removed, entered
15 into the United States, or sold after December 31, 2003.

16 **TITLE II—DYED FUEL**

17 **SEC. 201. DYE INJECTION EQUIPMENT.**

18 (a) IN GENERAL.—Section 4082(a)(2) (relating to
19 exemptions for diesel fuel and kerosene) is amended by
20 inserting “by mechanical injection” after “indelibly dyed”.

21 (b) DYE INJECTOR SECURITY.—Not later than 1
22 year after the date of the enactment of this Act, the Sec-
23 retary of the Treasury shall issue regulations regarding
24 mechanical dye injection systems described in the amend-
25 ment made by subsection (a), and such regulations shall

1 include standards for making such systems tamper resist-
2 ant.

3 (c) PENALTY FOR TAMPERING WITH OR FAILING TO
4 MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL
5 DYE INJECTION SYSTEMS.—

6 (1) IN GENERAL.—Part I of subchapter B of
7 chapter 68 (relating to assessable penalties) is
8 amended by adding after section 6715 the following
9 new section:

10 **“SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN**
11 **SECURITY REQUIREMENTS FOR MECHAN-**
12 **ICAL DYE INJECTION SYSTEMS.**

13 “(a) IMPOSITION OF PENALTY—

14 “(1) TAMPERING.—If any person tampers with
15 a mechanical dye injection system used to indelibly
16 dye fuel for purposes of section 4082, such person
17 shall pay a penalty.

18 “(2) FAILURE TO MAINTAIN SECURITY RE-
19 QUIREMENTS.—If any operator of a mechanical dye
20 injection system used to indelibly dye fuel which is
21 destined for a nontaxable use under section 4082
22 fails to maintain the security standards for such sys-
23 tem as established by the Secretary, then such oper-
24 ator shall pay a penalty.

1 “(b) AMOUNT OF PENALTY.—The amount of the
2 penalty under subsection (a) shall be—

3 “(1) for each violation described in paragraph
4 (1), the greater of—

5 “(A) \$25,000, or

6 “(B) \$10 for each gallon of fuel involved,

7 and

8 “(2) for each—

9 “(A) failure to maintain security standards
10 described in paragraph (2), \$1,000, and

11 “(B) failure to correct a violation described
12 in paragraph (2), \$1,000 per day.

13 “(c) JOINT AND SEVERAL LIABILITY.—

14 “(1) IN GENERAL.—If a penalty is imposed
15 under this section on any business entity, each offi-
16 cer, employee, or agent of such entity or other con-
17 tracting party who willfully participated in any act
18 giving rise to such penalty shall be jointly and sever-
19 ally liable with such entity for such penalty.

20 “(2) AFFILIATED GROUPS.—If a business entity
21 described in paragraph (1) is part of an affiliated
22 group (as defined in section 1504(a)), the parent
23 corporation of such entity shall be jointly and sever-
24 ally liable with such entity for the penalty imposed
25 under this section.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
 2 tions for part I of subchapter B of chapter 68 is
 3 amended by adding after the item related to section
 4 6715 the following new item:

“Sec. 6715A. Tampering with or failing to maintain security re-
 quirements for mechanical dye injection systems.”.

5 (d) EFFECTIVE DATE.—The amendments made by
 6 subsections (a) and (c) shall take effect 1 year after the
 7 date on which the Secretary issues the regulations de-
 8 scribed in subsection (b).

9 **SEC. 202. ELIMINATION OF ADMINISTRATIVE REVIEW FOR**
 10 **TAXABLE USE OF DYED FUEL.**

11 (a) IN GENERAL.—Section 6715 is amended by in-
 12 serting at the end the following new subsection:

13 “(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND
 14 SUBSEQUENT VIOLATIONS.—In the case of any person
 15 who is subject to the penalty under this section after a
 16 chemical analysis of such fuel and who has been penalized
 17 under this section at least twice after the date of the en-
 18 actment of this subsection, no administrative appeal or re-
 19 view shall be allowed with respect to such finding except
 20 in the case of a claim regarding—

21 “(1) fraud or mistake in the chemical analysis,
 22 or

23 “(2) mathematical calculation of the amount of
 24 the penalty.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to penalties assessed after the date
3 of the enactment of this Act.

4 **SEC. 203. PENALTY ON UNTAXED ADULTERATED FUEL MIX-**
5 **TURES.**

6 (a) IN GENERAL.—Section 6715(a) (relating to dyed
7 fuel sold for use or used in taxable use, etc.) is amended
8 by striking “or” in paragraph (2), by inserting “or” at
9 the end of paragraph (3), and by inserting after paragraph
10 (3) the following new paragraph:

11 “(4) any person who has knowledge that a dyed
12 fuel which has not been previously taxed or has only
13 been partially taxed has been chemically altered in
14 an attempt to remove the dye sells or holds for sale
15 such fuel for any use which the person knows or has
16 reason to know is not a nontaxable use of such
17 fuel.”.

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

1 **TITLE III—MODIFICATION OF IN-**
2 **SPECTION OF RECORDS PRO-**
3 **VISIONS**

4 **SEC. 301. EXPANDED DISCLOSURE OF RECORDS.**

5 (a) INSPECTION BY OTHER ENFORCEMENT AGEN-
6 CIES.—Section 4102 is amended by striking “by such offi-
7 cers” and all that follows and inserting “by—

8 “(1) such officers of a State, or a political sub-
9 division of any such State, as shall be charged with
10 the enforcement or collection of any tax on any tax-
11 able fuel (as defined in section 4083), and

12 “(2) such officers and employees of the Depart-
13 ment of Transportation of the Federal Government
14 and of the State equivalent of such department as
15 shall be charged with such enforcement or collec-
16 tion.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall take effect on the date of the enactment
19 of this Act.

20 **SEC. 302. AUTHORITY TO INSPECT ON-SITE RECORDS.**

21 (a) IN GENERAL.—Section 4083(c)(1)(A) (relating to
22 administrative authority) is amended by striking “and” at
23 the end of clause (i) and by inserting after clause (ii) the
24 following new clause:

1 “(iii) inspecting any books and
2 records and any shipping papers pertaining
3 to such fuel, and”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on the date of the enactment
6 of this Act.

7 **SEC. 303. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.**

8 (a) IN GENERAL.—Part I of subchapter B of chapter
9 68 (relating to assessable penalties) is amended by adding
10 at the end the following new section:

11 **“SEC. 6717. REFUSAL OF ENTRY.**

12 “(a) IN GENERAL.—In addition to any criminal pen-
13 alty provided by law, any person who refuses to admit
14 entry or refuses to permit any other action by the Sec-
15 retary authorized by section 4083(c)(1) shall pay a pen-
16 alty of \$1,000 for such refusal.

17 “(b) JOINT AND SEVERAL LIABILITY.—

18 “(1) IN GENERAL.—If a penalty is imposed
19 under this section on any business entity, each offi-
20 cer, employee, or agent of such entity or other con-
21 tracting party who willfully participated in any act
22 giving rise to such penalty shall be jointly and sever-
23 ally liable with such entity for such penalty.

24 “(2) AFFILIATED GROUPS.—If a business entity
25 described in paragraph (1) is part of an affiliated

1 group (as defined in section 1504(a)), the parent
 2 corporation of such entity shall be jointly and sever-
 3 ally liable with such entity for the penalty imposed
 4 under this section.

5 “(c) REASONABLE CAUSE EXCEPTION.—No penalty
 6 shall be imposed under this section with respect to any
 7 failure if it is shown that such failure is due to reasonable
 8 cause.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 4083(c)(3) is amended—

11 (A) by striking “ENTRY.—The penalty”
 12 and inserting: “ENTRY.—

13 “(A) FORFEITURE.—The penalty”, and

14 (B) by adding at the end the following new
 15 subparagraph:

16 “(B) ASSESSABLE PENALTY.—For addi-
 17 tional civil penalty for the refusal to admit
 18 entry or other refusal to permit an action by
 19 the Secretary authorized by paragraph (1), see
 20 section 6717.”.

21 (2) The table of sections for part I of sub-
 22 chapter B of chapter 68, as amended by this Act,
 23 is amended by adding at the end the following new
 24 item:

“Sec. 6717. Refusal of entry.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on January 1, 2004.

3 **TITLE IV—REGISTRATION AND**
4 **REPORTING REQUIREMENTS**

5 **SEC. 401. REGISTRATION OF PIPELINE OR VESSEL OPERA-**
6 **TORS REQUIRED FOR EXEMPTION OF BULK**
7 **TRANSFERS TO REGISTERED TERMINALS OR**
8 **REFINERIES.**

9 (a) IN GENERAL.—Section 4081(a)(1)(B) (relating
10 to exemption for bulk transfers to registered terminals or
11 refineries) is amended—

12 (1) by inserting “by pipeline or vessel” after
13 “transferred in bulk”, and

14 (2) by inserting “, the operator of such pipeline
15 or vessel,” after “the taxable fuel”.

16 (b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS
17 BY NONREGISTERED PIPELINES OR VESSELS.—

18 (1) IN GENERAL.—Part I of subchapter B of
19 chapter 68 (relating to assessable penalties), as
20 amended by this Act, is amended by adding at the
21 end the following new section:

22 **“SEC. 6718. CARRYING TAXABLE FUELS BY NONREG-**
23 **ISTERED PIPELINES OR VESSELS.**

24 “(a) IMPOSITION OF PENALTY.—If any taxable fuel
25 (as defined in section 4083(a)(1)) is transferred in bulk

1 by a person registered under section 4101, any person who
2 knowingly transfers such fuel to an unregistered person
3 shall pay a penalty in addition to the tax (if any).

4 “(b) AMOUNT OF PENALTY.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), the amount of the penalty under sub-
7 section (a) on each act shall be an amount equal to
8 the greater of—

9 “(A) \$10,000, or

10 “(B) \$1 per gallon.

11 “(2) MULTIPLE VIOLATIONS.—In determining
12 the penalty under subsection (a) on any person,
13 paragraph (1) shall be applied by increasing the
14 amount in paragraph (1) by the product of such
15 amount and the number of prior penalties (if any)
16 imposed by this section on such person (or a related
17 person or any predecessor of such person or related
18 person).

19 “(c) JOINT AND SEVERAL LIABILITY.—

20 “(1) IN GENERAL.—If a penalty is imposed
21 under this section on any business entity, each offi-
22 cer, employee, or agent of such entity or other con-
23 tracting party who willfully participated in any act
24 giving rise to such penalty shall be jointly and sever-
25 ally liable with such entity for such penalty.

1 “(2) AFFILIATED GROUPS.—If a business entity
2 described in paragraph (1) is part of an affiliated
3 group (as defined in section 1504(a)), the parent
4 corporation of such entity shall be jointly and sever-
5 ally liable with such entity for the penalty imposed
6 under this section.

7 “(d) REASONABLE CAUSE EXCEPTION.—No penalty
8 shall be imposed under this section with respect to any
9 failure if it is shown that such failure is due to reasonable
10 cause.”.

11 (2) CLERICAL AMENDMENT.—The table of sec-
12 tions for part I of subchapter B of chapter 68, as
13 amended by this Act, is amended by adding at the
14 end the following new item:

“Sec. 6718. Carrying taxable fuels by nonregistered pipelines or
vessels.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on January 1, 2004.

17 **SEC. 402. DISPLAY OF REGISTRATION.**

18 (a) IN GENERAL.—Subsection (a) of section 4101
19 (relating to registration) is amended—

20 (1) by striking “Every” and inserting the fol-
21 lowing:

22 “(1) IN GENERAL.—Every”, and

23 (2) by adding at the end the following new
24 paragraph:

1 “(2) DISPLAY OF REGISTRATION.—Every oper-
 2 ator of a vessel required by the Secretary to register
 3 under this section shall display proof of registration
 4 through an electronic identification device prescribed
 5 by the Secretary on each vessel used by such oper-
 6 ator to transport any taxable fuel.”.

7 (b) CIVIL PENALTY FOR FAILURE TO DISPLAY REG-
 8 ISTRATION.—

9 (1) IN GENERAL.—Part I of subchapter B of
 10 chapter 68 (relating to assessable penalties) is
 11 amended by adding at the end the following new sec-
 12 tion:

13 **“SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VES-**
 14 **SELS.**

15 “(a) FAILURE TO DISPLAY REGISTRATION.—Every
 16 operator of a vessel who fails to display proof of registra-
 17 tion pursuant to section 4101(a)(2) shall pay a penalty
 18 of \$500 for each such failure. With respect to any vessel,
 19 only one penalty shall be imposed by this section during
 20 any calendar month.

21 “(b) MULTIPLE VIOLATIONS.—In determining the
 22 penalty under subsection (a) on any person, subsection (a)
 23 shall be applied by increasing the amount in subsection
 24 (a) by the product of such amount and the number of
 25 prior penalties (if any) imposed by this section on such

1 person (or a related person or any predecessor of such per-
2 son or related person).”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions for part I of subchapter B of chapter 68, as
5 amended by this Act, is amended by adding at the
6 end the following new item:

“Sec. 6719. Failure to display registration of vessels.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on January 1, 2004.

9 **SEC. 403. CERTAIN REPORTS FILED ELECTRONICALLY.**

10 (a) IN GENERAL.—Subpart D of part II of sub-
11 chapter A of chapter 61 (relating to information and re-
12 turns) is amended by adding the following new section:

13 **“SEC. 6022. REPORTS REQUIRED TO BE FILED ELECTRONI-
14 CALLY.**

15 “Any person required to file a report under section
16 4101 shall file such report in electronic format.”.

17 (b) FORMAT FOR FILING.—The Secretary of the
18 Treasury shall prescribe regulations describing the format
19 for electronic filing of reports under section 6022 of the
20 Internal Revenue Code of 1986 (as added by subsection
21 (a)), including a simplified procedure for small terminal
22 operators, not later than 30 days after the date of the
23 enactment of this Act.

1 (c) CLERICAL AMENDMENT.—The table of sections
 2 for subpart D of part II of subchapter A of chapter 61
 3 is amended by adding at the end the following item:

“Sec. 6022. Reports required to be filed electronically.”.

4 (d) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to reports due 30 days after the
 6 day the Secretary of the Treasury issues the regulations
 7 described under subsection (b).

8 **SEC. 404. FAILURE TO REGISTER.**

9 (a) INCREASED PENALTY.—Subsection (a) of section
 10 7272 (relating to penalty for failure to register) is amend-
 11 ed by inserting “(\$10,000 in the case of a failure to reg-
 12 ister under section 4101)” after “\$50”.

13 (b) INCREASED CRIMINAL PENALTY.—Section 7232
 14 (relating to failure to register under section 4101, false
 15 representations of registration status, etc.) is amended by
 16 striking “\$5,000” and inserting “\$10,000”.

17 (c) ASSESSABLE PENALTY FOR FAILURE TO REG-
 18 ISTER.—

19 (1) IN GENERAL.—Part I of subchapter B of
 20 chapter 68 (relating to assessable penalties) is
 21 amended by adding at the end the following new sec-
 22 tion:

1 **“SEC. 6720. FAILURE TO REGISTER.**

2 “(a) FAILURE TO REGISTER.—Every person who is
3 required to register under section 4101 and fails to do
4 so shall pay a penalty in addition to the tax (if any).

5 “(b) AMOUNT OF PENALTY.—The amount of the
6 penalty under subsection (a) shall be—

7 “(A) \$10,000 for each initial failure to
8 register after the date of the enactment of this
9 section, and

10 “(B) \$1,000 for each day such person fails
11 to register.”.

12 (2) CLERICAL AMENDMENT.—The table of sec-
13 tions for part I of subchapter B of chapter 68, as
14 amended by this Act, is amended by adding at the
15 end the following new item:

“Sec. 6720. Failure to register.”.

16 (d) ASSESSABLE PENALTY FOR FAILURE TO RE-
17 PORT.—

18 (1) IN GENERAL.—Part II of subchapter B of
19 chapter 68 (relating to assessable penalties) is
20 amended by adding at the end the following new sec-
21 tion:

22 **“SEC. 6725. FAILURE TO REPORT INFORMATION UNDER**
23 **SECTION 4101.**

24 “Every person who is required to make a report and
25 furnish information with respect to a terminal, vessel, or

1 pipeline under section 4101(d) and fails to do so shall pay
 2 a penalty of \$10,000 with respect to each such terminal,
 3 vessel, or pipeline for which information is required to be
 4 furnished in addition to the tax (if any).”.

5 (2) CLERICAL AMENDMENT.—The table of sec-
 6 tions for part II of subchapter B of chapter 68, as
 7 amended by this Act, is amended by adding at the
 8 end the following new item:

“Sec. 6725. Failure to report information related to the transfer
 of taxable fuels.”.

9 (e) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to penalties imposed after the date
 11 of the enactment of this Act.

12 **SEC. 405. REGISTRATION OF PERSONS WITHIN FOREIGN**
 13 **TRADE ZONES.**

14 Section 4101(a), as amended by this Act, is amended
 15 by redesignating paragraph (2) as paragraph (3), and by
 16 inserting after paragraph (1) the following new paragraph:

17 “(2) REGISTRATION OF PERSONS WITHIN FOR-
 18 EIGN TRADE ZONES.—The Secretary shall require
 19 registration by any person which operates a terminal
 20 or refinery within a foreign trade zone the registra-
 21 tion of which the Secretary determines is necessary
 22 to carry out this part.”.

1 **SEC. 406. INFORMATION REPORTING FOR PERSONS CLAIM-**
2 **ING CERTAIN TAX BENEFITS.**

3 (a) IN GENERAL.—Subpart C of part III of sub-
4 chapter A of chapter 32 is amended by adding at the end
5 the following new section:

6 **“SEC. 4104. INFORMATION REPORTING FOR PERSONS**
7 **CLAIMING CERTAIN TAX BENEFITS.**

8 “(a) IN GENERAL.—The Secretary shall require any
9 person claiming tax benefits under the provisions of sec-
10 tion 34, 40, 4041(b)(2), 4041(k), 4081(c), 4091(e), or
11 6427(f) to file a quarterly return (in such manner as the
12 Secretary may prescribe) providing such information relat-
13 ing to such benefits and the coordination of such benefits
14 as the Secretary may require to ensure the proper admin-
15 istration and use of such benefits.

16 “(b) ENFORCEMENT.—With respect to any person
17 described in subsection (a) and subject to registration re-
18 quirements under this title, rules similar to rules of section
19 4222(c) shall apply with respect to any requirement under
20 this section.”.

21 (b) CONFORMING AMENDMENT.—The table of sec-
22 tions for subpart C of part III of subchapter A of chapter
23 32 is amended by adding at the end the following new
24 item:

“Sec. 4104. Information reporting for persons claiming certain tax bene-
fits.”.

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

4 **TITLE V—IMPORTS**

5 **SEC. 501. TAX AT POINT OF ENTRY WHERE IMPORTER NOT**
 6 **REGISTERED.**

7 (a) TAX AT POINT OF ENTRY WHERE IMPORTER
 8 NOT REGISTERED.—

9 (1) IN GENERAL.—Subpart C of part III of
 10 subchapter A of chapter 31, as amended by this Act,
 11 is amended by adding at the end the following new
 12 section:

13 **“SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REG-**
 14 **ISTERED.**

15 “(a) IN GENERAL.—Any tax imposed under this part
 16 on any person not registered under section 4101 for the
 17 entry of a fuel into the United States shall be imposed
 18 at the time and point of entry.

19 “(b) ENFORCEMENT OF ASSESSMENT.—If any per-
 20 son liable for any tax described under subsection (a) has
 21 not paid the tax or posted a bond, the Secretary may—

22 “(1) seize the fuel on which the tax is due, or

23 “(2) detain any vehicle transporting such fuel,
 24 until such tax is paid or such bond is filed.

1 “(c) LEVY OF FUEL.—If no tax has been paid or no
2 bond has been filed within 5 days from the date the Sec-
3 retary seized fuel pursuant to subsection (b), the Secretary
4 may sell such fuel as provided under section 6336.”.

5 (2) CONFORMING AMENDMENT.—The table of
6 sections for subpart C of part III of subchapter A
7 of chapter 31 of the Internal Revenue Code of 1986,
8 as amended by this Act, is amended by adding after
9 the last item the following new item:

“Sec. 4105. Tax at entry where importer not registered.”.

10 (b) AUTHORIZATION TO DENY ENTRY WHERE TAX
11 NOT PAID.—The Secretary of Homeland Security shall
12 deny entry into the United States of any shipment of a
13 fuel which is taxable under section 4041(a)(1), 4081, or
14 4091 of the Internal Revenue Code of 1986 if the person
15 entering such shipment fails to pay the tax imposed under
16 such section or post a bond in accordance with the provi-
17 sions of section 4105 of such Code.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the date of the enactment
20 of this Act.

21 **SEC. 502. RECONCILIATION OF ON-LOADED CARGO TO EN-**
22 **TERED CARGO.**

23 (a) IN GENERAL.—Subsection (a) of section 343 of
24 the Trade Act of 2002 is amended by inserting at the end
25 the following new paragraph:

1 “(4) IN GENERAL.—Subject to paragraphs (2)
 2 and (3), not later than 1 year after the enactment
 3 of this paragraph, the Secretary of Homeland Secu-
 4 rity, together with the Secretary of the Treasury,
 5 shall promulgate regulations providing for the trans-
 6 mission to the Internal Revenue Service, through an
 7 electronic data interchange system, of information
 8 pertaining to cargo of taxable fuels destined for im-
 9 portation into the United States prior to such impor-
 10 tation.”.

11 (b) EFFECTIVE DATE.—The amendment made by
 12 this section shall take effect on the date of the enactment
 13 of this Act.

14 **TITLE VI—MISCELLANEOUS**
 15 **PROVISIONS**

16 **SEC. 601. TAX ON SALE OF DIESEL FUEL WHETHER SUIT-**
 17 **ABLE FOR USE OR NOT IN A DIESEL-POW-**
 18 **ERED VEHICLE OR TRAIN.**

19 (a) IN GENERAL.—Section 4083(a)(3) (defining die-
 20 sel fuel) is amended by inserting “sold as, offered for sale
 21 as, or” after “(other than gasoline) which is”.

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

1 **SEC. 602. ULTIMATE VENDOR REFUND CLAIMS**

2 (a) IN GENERAL.—Clause (i) of section
3 6427(l)(5)(A) is amended by inserting “in quantities of
4 less than 500 gallons” after “section 6420(c)”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to fuels used for nontaxable use
7 after the date of the enactment of this Act.

8 **SEC. 603. TAXABLE FUEL REFUNDS.**

9 (a) IN GENERAL.—Paragraph (4) of section 6416(a)
10 (relating to abatements, credits, and refunds) is amended
11 to read as follows:

12 “(4) REGISTERED ULTIMATE VENDOR TO AD-
13 MINISTER CREDITS AND REFUNDS OF GASOLINE
14 TAX.—For purposes of this subsection, if an ulti-
15 mate vendor (within the meaning of section
16 6427(l)(5)(C)) purchases any gasoline on which tax
17 imposed by section 4081 has been paid and sells
18 such gasoline to an ultimate purchaser described in
19 subparagraph (C) or (D) of subsection (b)(2) (and
20 such gasoline is for a use described in such subpara-
21 graph), such ultimate vendor shall be treated as the
22 person (and the only person) who paid such tax. The
23 procedure and timing of the claim shall be the same
24 as refunds of diesel fuel under section 6427(i)(4).”.

1 (b) TIMING OF REFUND.—Subparagraph (B) of sec-
2 tion 6427(i)(3) (relating to time for filing claims) is
3 amended by—

4 (1) striking “20 days” and inserting “45 days”,
5 and

6 (2) inserting at the end the following sentence:
7 “If the claim filed under this subsection is filed by
8 electronic means, the preceding sentence shall apply
9 by substituting ‘20 days’ for ‘45 days’.”.

10 (c) FLEET FUEL CREDIT CARDS.—Section
11 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel,
12 kerosene, and aviation fuel) is amended by adding at the
13 end the following new sentence: “For purposes of this sub-
14 paragraph, if the sale of taxable fuel is made by means
15 of a fleet fueling credit card, the person extending the
16 credit to the ultimate purchaser shall be deemed to be the
17 ultimate vendor.”.

18 (d) RULES FOR ELECTRONIC CLAIMS.—Not later
19 than 6 months after the date of the enactment of this Act,
20 the Secretary of the Treasury shall prescribe regulations
21 for filing electronic claims under this section.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the date of the enactment
24 of this Act.

1 **SEC. 604. TWO-PARTY EXCHANGES.**

2 (a) IN GENERAL.—Subpart C of part III of sub-
3 chapter A of chapter 32, as amended by this Act, is
4 amended by adding at the end the following new section:

5 **“SEC. 4106. TWO-PARTY EXCHANGES.**

6 “(a) IN GENERAL.—In a two-party exchange, the de-
7 livering person shall not be liable for the tax imposed
8 under clause (i) or (ii) of section 4081(a)(1)(A).

9 “(b) TWO-PARTY EXCHANGE.—The term ‘two-party
10 exchange’ means a transaction, other than a sale, in which
11 taxable fuel is transferred from a delivering person reg-
12 istered under section 4101 for exempt bulk transfers of
13 taxable fuel to a receiving person registered under section
14 4101 for exempt bulk transfers of taxable fuel where all
15 of the following occur:

16 “(1) The transaction includes a transfer from
17 the delivering person, who holds the original inven-
18 tory position for taxable fuel in the terminal as re-
19 flected in the records of the terminal operator.

20 “(2) The exchange transaction occurs before or
21 contemporaneous with completion of removal across
22 the rack from the terminal by the receiving person.

23 “(3) The terminal operator in its books and
24 records treats the receiving person as the person
25 that removes the product across the terminal rack

1 for purposes of reporting the transaction to the Sec-
2 retary.

3 “(4) The transaction is the subject of a written
4 contract.”.

5 (b) CONFORMING AMENDMENT.—The table of sec-
6 tions for subpart C of part III of subchapter A of chapter
7 32, as amended by this Act, is amended by adding after
8 the last item the following new item:

“Sec. 4106. Two-party exchanges.”.

9 (c) EFFECTIVE DATE.—The amendment made by
10 this section shall take effect on the date of the enactment
11 of this Act.

12 **SEC. 605. MODIFICATIONS OF TAX ON USE OF CERTAIN VE-**
13 **HICLES.**

14 (a) NO PRORATION OF TAX UNLESS VEHICLE IS DE-
15 STROYED OR STOLEN.—

16 (1) IN GENERAL.—Section 4481(c) (relating to
17 proration of tax) is amended to read as follows:

18 “(c) PRORATION OF TAX WHERE VEHICLE SOLD,
19 DESTROYED, OR STOLEN.—

20 “(1) IN GENERAL.—If in any taxable period a
21 highway motor vehicle is sold, destroyed, or stolen
22 before the first day of the last month in such period
23 and not subsequently used during such taxable pe-
24 riod, the tax shall be reckoned proportionately from
25 the first day of the month in such period in which

1 the first use of such highway motor vehicle occurs
2 to and including the last day of the month in which
3 such highway motor vehicle was sold, destroyed, or
4 stolen.

5 “(2) DESTROYED.—For purposes of paragraph
6 (1), a highway motor vehicle is destroyed if such ve-
7 hicle is damaged by reason of an accident or other
8 casualty to such an extent that it is not economic to
9 rebuild.”.

10 (2) DISPLAY OF TAX CERTIFICATE.—Paragraph
11 (2) of section 4481(d) (relating to one tax liability
12 for period) is amended to read as follows:

13 “(2) DISPLAY OF TAX CERTIFICATE.—Every
14 person, agency, or instrumentality which pays the
15 tax imposed under this section with respect to a
16 highway motor vehicle shall, not later than October
17 1 with respect to each taxable period, receive and
18 display on such vehicle an electronic identification
19 device prescribed by the Secretary.”.

20 (3) CONFORMING AMENDMENTS.—

21 (A) Section 6156 (relating to installment
22 payment of tax on use of highway motor vehi-
23 cles) is repealed.

1 (B) The table of sections for subchapter A
2 of chapter 62 is amended by striking the item
3 relating to section 6156.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable periods beginning after
6 the date of the enactment of this Act.

7 **SEC. 606. DEDICATION OF REVENUES FROM CERTAIN PEN-**
8 **ALTIES TO THE HIGHWAY TRUST FUND.**

9 (a) IN GENERAL.—Subsection (b) of section 9503
10 (relating to transfer to Highway Trust Fund of amounts
11 equivalent to certain taxes) is amended by redesignating
12 paragraph (5) as paragraph (6) and inserting after para-
13 graph (4) the following new paragraph:

14 “(5) CERTAIN PENALTIES.—There are hereby
15 appropriated to the Highway Trust Fund amounts
16 equivalent to the penalties assessed under sections
17 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232,
18 and 7272 (but only with regard to penalties under
19 such section related to failure to register under sec-
20 tion 4101).”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) The heading of subsection (b) of section
23 9503 is amended by inserting “AND PENALTIES”
24 after “TAXES”.

1 (2) The heading of paragraph (1) of section
2 9503(b) is amended by striking “IN GENERAL” and
3 inserting “CERTAIN TAXES”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to penalties assessed after the date
6 of the enactment of this Act.

○