

110TH CONGRESS
2D SESSION

S. 3591

To amend the Clean Air Act to improve motor fuel supply and distribution.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25 (legislative day, SEPTEMBER 17), 2008

Mrs. DOLE (for herself and Mr. BURR) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to improve motor fuel supply and distribution.

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 “Motor Fuel Supply
5 and Distribution Improvement Act”.

6 **SEC. 2. IMPROVING MOTOR FUEL SUPPLY AND DISTRIBUTION.**
7

8 (a) LIMITING NUMBER OF BOUTIQUE FUELS.—Sec-
9 tion 211(c)(4)(C) of the Clean Air Act (42 U.S.C.
10 7545(c)(4)(C)) is amended by striking the second clause

1 (v) (as added by section 1541(b) of Public Law 109–58)
2 and inserting the following:

3 “(vi)(I) The Administrator shall have
4 no authority, when considering a State im-
5 plementation plan or a State implementa-
6 tion plan revision, to approve under this
7 paragraph any fuel included in such plan
8 or revision if the effect of such approval
9 would be to increase the total number of
10 fuels approved under this paragraph as of
11 January 1, 2009 in all State implementa-
12 tion plans.

13 “(II) The Administrator, in consulta-
14 tion with the Secretary of Energy, shall de-
15 termine the total number of fuels approved
16 under this paragraph as of January 1,
17 2009, in all State implementation plans
18 and shall publish a list of such fuels, in-
19 cluding the States and Petroleum Adminis-
20 tration for Defense District in which they
21 are used, in the Federal Register no later
22 than 90 days after enactment.

23 “(III) The Administrator shall remove
24 a fuel from the list published under sub-
25 clause (II) if a fuel ceases to be included

1 in a State implementation plan or if a fuel
2 in a State implementation plan is identical
3 to a Federal fuel formulation implemented
4 by the Administrator, but the Adminis-
5 trator shall not reduce the total number of
6 fuels authorized under the list published
7 under subclause (II).

8 “(IV) Subclause (I) shall not apply to
9 approval by the Administrator of a control
10 or prohibition respecting any new fuel
11 under this paragraph in a State’s imple-
12 mentation plan or a revision to that State’s
13 implementation plan after the date of en-
14 actment of this Act if the fuel, as of the
15 date of consideration by the Adminis-
16 trator—

17 “(aa) would replace completely a
18 fuel on the list published under sub-
19 clause (II);

20 “(bb) has been approved in at
21 least one State implementation plan
22 in the applicable Petroleum Adminis-
23 tration for Defense District; or

24 “(cc) is a fuel that differs from
25 the Federal conventional gasoline

1 specifications under subsection (k)(8)
2 only with respect to the requirement
3 of a summertime Reid Vapor Pressure
4 of 7.0 or 7.8 pounds per square inch.

5 “(V) Nothing in this clause shall be
6 construed to have any effect regarding any
7 available authority of States to require the
8 use of any fuel additive registered in ac-
9 cordance with subsection (b), including any
10 fuel additive registered in accordance with
11 subsection (b) after the enactment of this
12 subclause.

13 “(VI) In this clause:

14 “(aa) The term ‘control or prohi-
15 bition respecting a new fuel’ means a
16 control or prohibition on the formula-
17 tion, composition, or emissions char-
18 acteristics of a fuel that would require
19 the increase or decrease of a con-
20 stituent in gasoline or diesel fuel.

21 “(bb) The term ‘fuel’ means gas-
22 oline, diesel fuel, and any other liquid
23 petroleum product commercially
24 known as gasoline and diesel fuel for

1 use in highway and non-road motor
2 vehicles.”.

3 (b) TEMPORARY WAIVERS DURING SUPPLY EMER-
4 GENCIES.—Section 211(c)(4) of the Clean Air Act (42
5 U.S.C. 7545(c)(4)) is amended by adding at the end the
6 following:

7 “(D) TEMPORARY WAIVERS DURING SUPPLY EMER-
8 GENCIES.—The Administrator may temporarily waive a
9 control or prohibition with respect to the use of a fuel or
10 fuel additive required or regulated by the Administrator
11 under subsection (e), (h), (i), (k), or (m), or prescribed
12 in an applicable implementation plan under section 110
13 that is approved by the Administrator under subparagraph
14 (c)(4)(C)(i), if, after consultation with and concurrence by
15 the Secretary of Energy, the Administrator determines
16 that—

17 “(i) an extreme and unusual fuel or fuel addi-
18 tive supply circumstance exists in a State or region
19 that prevents the distribution of an adequate supply
20 of the fuel or fuel additive to consumers;

21 “(ii) the extreme and unusual fuel or fuel addi-
22 tive supply circumstance is the result of a natural
23 disaster, an act of God, a pipeline or refinery equip-
24 ment failure, or another event that could not reason-
25 ably have been foreseen or prevented and not a lack

1 of prudent planning on the part of the suppliers of
2 the fuel or fuel additive to the State or region; and

3 “(iii) it is in the public interest to grant the
4 waiver.

5 “(E) REQUIREMENTS FOR WAIVER.—

6 “(i) DEFINITION OF MOTOR FUEL DISTRIBUTION SYSTEM.—In this subparagraph, the term
7 ‘motor fuel distribution system’ has the meaning
8 given the term by the Administrator, by regulation.
9

10 “(ii) REQUIREMENTS.—A waiver under sub-
11 paragraph (D) shall be permitted only if—

12 “(I) the waiver applies to the smallest geo-
13 graphic area necessary to address the extreme
14 and unusual fuel or fuel additive supply cir-
15 cumstance;

16 “(II) the waiver is effective for a period of
17 15 calendar days or, if the Administrator deter-
18 mines that a shorter or longer waiver period is
19 adequate, for the shortest practicable time pe-
20 riod necessary to permit the correction of the
21 extreme and unusual fuel or fuel additive sup-
22 ply circumstances and to mitigate impact on air
23 quality;

24 “(III) the waiver permits a transitional pe-
25 riod, the duration of which shall be determined

1 by the Administrator, after the termination of
2 the temporary waiver to permit wholesalers and
3 retailers to blend down wholesale and retail in-
4 ventory;

5 “(IV) the waiver applies to all persons in
6 the motor fuel distribution system; and

7 “(V) the Administrator has given public
8 notice regarding consideration by the Adminis-
9 trator of, and, if applicable, the granting of, a
10 waiver to all parties in the motor fuel distribu-
11 tion system, State and local regulators, public
12 interest groups, and consumers in the State or
13 region to be covered by the waiver.

14 “(F) AFFECT ON WAIVER AUTHORITY.—Nothing in
15 subparagraph (D)—

16 “(i) limits or otherwise affects the application
17 of any other waiver authority of the Administrator
18 under this section or a regulation promulgated pur-
19 suant to this section; or

20 “(ii) subjects any State or person to an enforce-
21 ment action, penalties, or liability solely arising from
22 actions taken pursuant to the issuance of a waiver
23 under subparagraph (D).”.

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