

106TH CONGRESS  
2D SESSION

# H. R. 4011

To amend section 211 of the Clean Air Act to prohibit the use of MTBE, to provide flexibility within the oxygenate requirement of the Environmental Protection Agency's Reformulated Gasoline Program, to promote the use of renewable ethanol, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2000

Mr. GANSKE (for himself, Mr. SHIMKUS, Mr. BARRETT of Nebraska, Mr. EVANS, Mr. LEACH, Mr. BOSWELL, Mr. LATHAM, Mr. MINGE, Mr. LAHOOD, Mr. RAMSTAD, Mr. TERRY, Mr. PHELPS, Mr. LIPINSKI, Mr. WELLER, Mr. BLUNT, Ms. DANNER, Mr. EWING, Mr. UPTON, Mr. THUNE, Mr. HULSHOF, Mr. VENTO, Mr. BOEHLERT, Mr. MANZULLO, Mr. SOUDER, and Mr. STRICKLAND) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To amend section 211 of the Clean Air Act to prohibit the use of MTBE, to provide flexibility within the oxygenate requirement of the Environmental Protection Agency's Reformulated Gasoline Program, to promote the use of renewable ethanol, 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 at the "Clean Air and Water  
5 Preservation Act of 2000".

1 **SEC. 2. FINDINGS.**

2 The Congress finds that:

3 (1) The oxygenate requirement of the reformu-  
4 lated gasoline (“RFG”) program has proven effec-  
5 tive in reducing emissions of exhaust hydrocarbons,  
6 nitrous oxide and carbon monoxide, known precu-  
7 sors to smog.

8 (2) One oxygenate chosen by gasoline refiners  
9 to comply with the Clean Air Act regulations, methyl  
10 tertiary butyl ether (“MTBE”), has been discovered  
11 in water sources throughout the nation.

12 (3) MTBE renders water undrinkable and is  
13 considered a probable carcinogen by the Environ-  
14 mental Protection Agency.

15 (4) MTBE is highly soluble in water and slow  
16 to degrade. Only one gallon of MTBE is required to  
17 contaminate 26 million gallons of water.

18 (5) An alternative oxygenate, ethanol, is a  
19 biobased product which produces the same reduc-  
20 tions in emissions, is not as soluble in water, bio-  
21 degrades rapidly, and is considered safe for the envi-  
22 ronment.

23 (6) The oxygenate requirement of the RFG pro-  
24 gram requires 2 percent by weight of an oxygenate  
25 be added to gasoline. Ethanol contains approxi-  
26 mately twice as much as oxygen as MTBE, therefore

1 supplying the RFG program with sufficient ethanol  
2 to replace MTBE would require half the volume of  
3 MTBE currently used.

4 (7) The ethanol industry is expanding rapidly.  
5 Production capacity in 1998 was estimated at 1.8  
6 billion gallons. New production facilities that came  
7 on line in 1999 has greatly increased this capacity.

8 (8) The Department of Agriculture projects the  
9 domestic ethanol industry will be able to produce the  
10 approximately 3.1 billion gallons of ethanol nec-  
11 essary to replace MTBE by 2004.

12 (9) The U.S. Department of Agriculture esti-  
13 mates that replacing MTBE with ethanol will (A) in-  
14 crease the demand for corn for ethanol by more than  
15 500 million bushels each year, improving the price of  
16 corn by 14 cents per bushel each year and increasing  
17 average total farm cash receipts by \$1 billion each  
18 year; (B) create 13,000 new jobs; and (C) increase  
19 average US agricultural net export value by more  
20 than \$200 million and reduce US import value of  
21 MTBE by \$1.1 billion for an improved US trade  
22 balance of \$1.3 billion each year.

23 (10) Ethanol is an energy efficient fuel. A 1995  
24 report by the USDA estimated one gallon of ethanol  
25 provides 25 percent more energy than production re-

1       quires. Other studies show the net energy gain po-  
2       tential of ethanol could exceed 150 percent when  
3       state-of-the art agricultural and production tech-  
4       nologies are used.

5               (11) Ethanol is proven to enhance the perform-  
6       ance of automobiles. Currently, all vehicle manufac-  
7       turers approve the use of 10 percent ethanol blended  
8       fuels.

9               (12) Replacing MTBE with ethanol would  
10      maintain the emissions reductions obtained through  
11      the RFG program without the water contamination  
12      problems associated with MTBE.

13              (13) When implementing the Clean Air Act  
14      Amendments of 1990, the Environmental Protection  
15      Agency required, by regulation, that each gallon of  
16      gasoline sold in the RFG program contain a min-  
17      imum of 1.5 percent by weight of oxygenate. This  
18      was not the intent of Congress in passing the oxy-  
19      genate requirement and prohibits the most efficient  
20      use of oxygenates. Lifting this regulatory require-  
21      ment will provide refiners more flexibility for com-  
22      plying with the RFG program and provide high per-  
23      formance gasoline year-round.

24              (14) Providing such flexibility in the use of  
25      oxygenates could lead to an increase in the use of

1 aromatics, many of which are known carcinogens.  
2 Therefore, a limit on the amount of aromatics added  
3 to gasoline is necessary to protect public health.

4 (15) Providing such flexibility in the use of  
5 oxygenates could lead to an increase in emissions.  
6 Therefore, a prohibition against an increase in emis-  
7 sions above the level achieved by RFG gasoline is  
8 necessary to protect air quality.

9 **SEC. 3. USE OF MTBE AS A FUEL ADDITIVE.**

10 (a) **MTBE BAN.**—Section 211(c) of the Clean Air  
11 Act (42 U.S.C.7545(c)) is amended by adding at the end  
12 of paragraph (1) the following: “The regulations under  
13 this paragraph shall prohibit the use of methyl tertiary  
14 butyl ether (MTBE) as a fuel additive.”.

15 (b) **REGULATIONS.**—The Administrator of the Envi-  
16 ronmental Protection Agency shall amend the regulations  
17 under section 211(c)(1) of the Clean Air Act as promptly  
18 as practicable after the date of enactment of this Act to  
19 conform to the amendment made by subsection (a) of this  
20 section.

21 (c) **EFFECTIVE DATE.**—Subsection (a) of this section  
22 shall take effect upon the expiration of the three-year pe-  
23 riod beginning on the date of the enactment of this Act.

24 (d) **LABELING.**—During the period beginning on the  
25 date of enactment of this Act and ending three years from

1 the date of enactment, the Administrator of the Environ-  
2 mental Protection Agency shall require any person selling  
3 gasoline that contains methyl tertiary butyl ether at retail  
4 to prominently label the fuel dispensing system for the  
5 gasoline with a notice that the gasoline contains methyl  
6 tertiary butyl ether ('MTBE').

7 **SEC. 4. EXISTING MTBE WATER CONTAMINATION.**

8 (a) STATE SOURCE WATER ASSESSMENT PRO-  
9 GRAMS.—Section 1453(a) of the Safe Drinking Water Act  
10 is amended by adding the following at the end thereof:

11 “(8) MTBE CONTAMINATION.—The Adminis-  
12 trator shall amend the guidelines under this sub-  
13 section to require that State source water assess-  
14 ment programs be revised to prioritize groundwater  
15 areas and aquifers that have been contaminated, or  
16 are most vulnerable to contamination, by methyl ter-  
17 tiary butyl ether ('MTBE'). Each such revision shall  
18 be submitted and approved or disapproved by the  
19 Administrator in accordance with the same deadlines  
20 as applicable to the original program under para-  
21 graph (3).”.

22 (b) EPA CLEANUP GUIDELINES.—Section 1442 of  
23 the Safe Drinking Water Act is amended by adding the  
24 following at the end thereof:

1       “(f) CLEANUP GUIDELINES FOR MTBE.—The Ad-  
2 ministrator shall develop a clear set of technical guidelines  
3 to assist States in the investigation and cleanup of methyl  
4 tertiary butyl ether (‘MTBE’) in groundwater.”.

5 **SEC. 5. ALLOWING FOR OXYGEN AVERAGING WITHIN THE**  
6 **RFG PROGRAM.**

7       (a) AMENDMENT OF CLEAN AIR ACT.—Subpara-  
8 graph (B) of section 211(k)(2) of the Clean Air Act and  
9 clause (v) of subparagraph (A) of section 211(k)(3) of  
10 such Act are each amended by inserting “an average of”  
11 before “2.0 percent”.

12       (b) REGULATION INVALIDATED.—The provisions of  
13 section 80.41(b) of part 80 of title 40 of the Code of Fed-  
14 eral Regulations establishing a per-gallon minimum oxy-  
15 gen content (percent, by weight) shall cease to have any  
16 force and effect on the date of the enactment of this Act.

17 **SEC. 6. ANTI-BACKSLIDING.**

18       (a) OZONE FORMING POTENTIAL.—Section  
19 211(k)(1) of the Clean Air Act is amended by adding the  
20 following at the end thereof: “No later than June 1, 2000,  
21 the Administrator shall revise the regulations under this  
22 paragraph as necessary to ensure that the ozone forming  
23 potential, taking into account all ozone precursors (includ-  
24 ing volatile organic compounds, oxides of nitrogen, and  
25 carbon monoxide), of the aggregate emissions during the

1 high ozone season (as defined by the Administrator) from  
2 baseline vehicles when using reformulated gasoline does  
3 not exceed the ozone forming potential of the aggregate  
4 emissions from such vehicles when using reformulated gas-  
5 oline that complies with the regulations that were in effect  
6 on January 1, 2000, and applicable to reformulated gaso-  
7 line sold in calendar year 2000 and thereafter.”.

8 (b) AROMATIC HYDROCARBON CONTENT.—Section  
9 211(k)(2) of the Clean Air Act is amended by adding the  
10 following new subparagraph at the end thereof:

11 (E) AROMATIC HYDROCARBON CON-  
12 TENT.—The aromatic hydrocarbon content of  
13 the gasoline shall be not greater than the aver-  
14 age aromatic hydrocarbon content of reformu-  
15 lated gasoline sold in covered areas for use in  
16 such vehicles during the year 2000.”.

17 **SEC. 7. DEVELOPING OXYGENATE ALTERNATIVES TO MTBE.**

18 The Secretary of Energy and the Administrator of  
19 the Environmental Protection Agency shall evaluate by  
20 December 31, 2000 and report to the President and the  
21 Congress on the potential for development of oxygenate  
22 alternatives to methyl tertiary butyl ether (“MTBE”) not  
23 otherwise identified in this Act, and shall evaluate what  
24 steps, if any, would be appropriate to foster development

1 of such alternatives should they be found to be an accept-  
2 able substitute for MTBE.

3 **SEC. 8. TRANSITION TO ETHANOL.**

4       It is the Sense of the Congress that the United States  
5 should promote renewable ethanol to replace methyl ter-  
6 tiary butyl ether (“MTBE”) and encourage oil refiners to  
7 make the transition from MTBE-blended fuel to ethanol-  
8 blended fuel as soon as possible.

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