

107TH CONGRESS  
1ST SESSION

# H. R. 2161

To amend title 49, United States Code, to provide a mandatory fuel surcharge for transportation provided by certain motor carriers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2001

Mr. RAHALL (for himself, Mr. BLUNT, Mr. MOLLOHAN, Mr. NEY, Mr. PETERSON of Minnesota, Mr. STRICKLAND, Mr. LIPINSKI, and Ms. BROWN of Florida) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend title 49, United States Code, to provide a mandatory fuel surcharge for transportation provided by certain motor carriers, 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 as the “Motor Carrier Fuel  
5 Cost Equity Act of 2001”.

6 **SEC. 2. MANDATORY FUEL SURCHARGE.**

7 (a) IN GENERAL.—Chapter 137 of title 49, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

1 **“§ 13714. Fuel surcharge**

2 “(a) MANDATORY FUEL SURCHARGE.—

3 “(1) ESTABLISHMENT OF SURCHARGE.—Any  
4 contract or agreement providing for truckload trans-  
5 portation or service involving a motor carrier,  
6 broker, or freight forwarder subject to jurisdiction  
7 under chapter 135 who regularly provides such  
8 transportation or service shall include a requirement  
9 to assess a payer of transportation charges a min-  
10 imum surcharge for fuel used in the transportation  
11 provided to such payer commencing when the cur-  
12 rent price of fuel surpasses, by \$0.05 per gallon, the  
13 benchmark price set forth in paragraph (2). The  
14 surcharge assessed by the motor carrier, broker, or  
15 freight forwarder shall be calculated on the basis of  
16 mileage or percentage of revenue (whichever basis  
17 the motor carrier, broker, or freight forwarder  
18 elects) and shall be the amount necessary to com-  
19 pensate the person responsible for paying for fuel for  
20 the amount of increase in the cost of fuel.

21 “(2) BENCHMARK PRICE.—The benchmark  
22 price referred to in paragraph (1) shall be \$1.10 per  
23 gallon.

24 “(b) IMPLEMENTATION.—The surcharge referred to  
25 in subsection (a)(1) shall be—

1           “(1) calculated on the date the shipment is ten-  
2           dered to the motor carrier, broker, or freight for-  
3           warder;

4           “(2) itemized separately on the motor carrier,  
5           broker, or freight forwarder’s invoices; and

6           “(3) paid by the payer of transportation  
7           charges.

8           “(c) FACTORS.—For purposes of calculating a sur-  
9           charge under this section—

10           “(1) average fuel economy is 5 miles per gallon;  
11           and

12           “(2) mileage means the number of paid miles  
13           driven as determined under the Department of De-  
14           fense, Military Traffic Management Command’s ‘De-  
15           fense Table of Official Distances’ or mileage guide  
16           established pursuant to section 13703 (a)(1)(D).

17           “(d) LIMITATION ON AUTHORITY.—Notwithstanding  
18           any other provision of this part, enforcement of this sec-  
19           tion shall be through the private right of action provided  
20           in section 14704(a), and neither the Secretary of Trans-  
21           portation nor the Surface Transportation Board shall have  
22           regulatory or enforcement authority relating to provisions  
23           of this section.

1 **“§ 13715. Negotiated fuel adjustments**

2       “(a) IN GENERAL.—Nothing in section 13714 shall  
3 be construed to abrogate provisions relating to fuel cost  
4 adjustments in any transportation contract or agreement  
5 in effect on the date of the enactment of the Motor Carrier  
6 Fuel Cost Equity Act of 2001 and any renewal of such  
7 a contract or agreement thereafter. Nothing in this section  
8 and sections 13714 and 14102 shall be construed to pro-  
9 hibit any motor carrier, broker, or freight forwarder from  
10 including any privately negotiated fuel cost adjustment  
11 provision in any contract or agreement to provide trans-  
12 portation that is an amount necessary to compensate the  
13 person responsible for paying for fuel for the amount of  
14 increase in the cost of fuel.

15       “(b) CONTINUATION OF AUTHORITY.—Nothing in  
16 section 13714 shall impair the ability of any person to  
17 enter into any contract or agreement after the date of the  
18 enactment of the Motor Carrier Fuel Cost Equity Act of  
19 2001 that provides for a fuel adjustment under this sec-  
20 tion or section 13714 during any period in which no fuel  
21 surcharge is required under section 13714.”.

22       (b) CLERICAL AMENDMENT.—The analysis for chap-  
23 ter 137 of such title is amended by adding at the end the  
24 following:

“13714. Fuel surcharge.  
“13715. Negotiated fuel adjustments.”.

1 **SEC. 3. MANDATORY PASS-THROUGH TO COST BEARER.**

2 Section 14102 of title 49, United States Code, is  
3 amended by adding at the end the following:

4 “(c) MANDATORY PASS-THROUGH TO COST BEAR-  
5 ER.—

6 “(1) IN GENERAL.—A motor carrier, broker, or  
7 freight forwarder providing transportation or service  
8 using motor vehicles not owned by it and using fuel  
9 not paid for by it—

10 “(A) shall pass through to the person re-  
11 sponsible for paying for fuel any fuel surcharge  
12 required by section 13714 or provided for in  
13 transportation contracts or agreements;

14 “(B) shall disclose in writing to the equip-  
15 ment lessor and lessee the amount of all freight  
16 rates and charges and fuel surcharges applica-  
17 ble to such transportation or service; and

18 “(C) is prohibited from—

19 “(i) intentionally reducing compen-  
20 satory transportation costs (other than the  
21 fuel surcharge) to the person responsible  
22 for paying for fuel for the purpose of ad-  
23 justing for or avoiding the pass through of  
24 the fuel surcharge; and

25 “(ii) intentionally imposing a fuel cost  
26 adjustment in accordance with section

1                   13715 for the purpose of avoiding any pay-  
2                   ment under this section or section 13714.

3                   “(2) LIMITATION ON AUTHORITY.—Notwith-  
4                   standing any other provision of this part, enforce-  
5                   ment of this section shall be through the private  
6                   right of action provided in section 14704(a), and  
7                   neither the Secretary of Transportation nor the Sur-  
8                   face Transportation Board shall have regulatory or  
9                   enforcement authority relating to provisions of this  
10                  subsection.”.

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