

108TH CONGRESS
2D SESSION

H. R. 5165

To amend the Clean Air Act to reduce the proliferation of boutique fuels,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2004

Mr. BLUNT (for himself, Mr. RYAN of Wisconsin, Mr. SANDLIN, Mr. GREEN of Wisconsin, Mrs. NORTHUP, Mr. ROGERS of Michigan, Mr. PETRI, Mr. SENSENBRENNER, Mr. KIRK, Mr. NEY, Mr. BRADY of Texas, Mr. ENGLISH, Mr. AKIN, Mr. WICKER, Mr. DUNCAN, Mr. BONILLA, Mr. STENHOLM, Mr. HERGER, and Mr. SHADEGG) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Clean Air Act to reduce the proliferation
of boutique fuels, 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 “Boutique Fuels Reduc-

5 tion Act of 2004”.

1 **SEC. 2. TEMPORARY WAIVERS DURING SUPPLY EMER-**
2 **GENCIES.**

3 Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.
4 7545(c)(4)(C)) is amended by inserting “(i)” after “(C)”
5 and by adding the following new clauses at the end there-
6 of:

7 “(ii) The Administrator may temporarily waive a con-
8 trol or prohibition respecting the use of a fuel or fuel addi-
9 tive required or regulated by the Administrator pursuant
10 to subsection (c), (h), (i), (k), or (m) of this section or
11 prescribed in an applicable implementation plan under sec-
12 tion 110 approved by the Administrator under clause (i)
13 of this subparagraph if, after consultation with, and con-
14 currence by, the Secretary of Energy, the Administrator
15 determines that—

16 “(I) extreme and unusual fuel or fuel additive
17 supply circumstances exist in a State or region of
18 the Nation which prevent the distribution of an ade-
19 quate supply of the fuel or fuel additive to con-
20 sumers;

21 “(II) such extreme and unusual fuel and fuel
22 additive supply circumstances are the result of a
23 natural disaster, an Act of God, a pipeline or refin-
24 ery equipment failure, or another event that could
25 not reasonably have been foreseen or prevented and
26 not the lack of prudent planning on the part of the

1 suppliers of the fuel or fuel additive to such State
2 or region; and

3 “(III) it is in the public interest to grant the
4 waiver (for example, when a waiver is necessary to
5 meet projected temporary shortfalls in the supply of
6 the fuel or fuel additive in a State or region of the
7 Nation which cannot otherwise be compensated for).

8 “(iii) If the Administrator makes the determinations
9 required under clause (ii), such a temporary extreme and
10 unusual fuel and fuel additive supply circumstances waiver
11 shall be permitted only if—

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

15 “(II) the waiver is effective for a period of 20
16 calendar days or, if the Administrator determines
17 that a shorter waiver period is adequate, for the
18 shortest practicable time period necessary to permit
19 the correction of the extreme and unusual fuel and
20 fuel additive supply circumstances and to mitigate
21 impact on air quality;

22 “(III) the waiver permits a transitional period,
23 the exact duration of which shall be determined by
24 the Administrator, after the termination of the tem-

1 porary waiver to permit wholesalers and retailers to
2 blend down their wholesale and retail inventory;

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

5 “(V) the Administrator has given public notice
6 to all parties in the motor fuel distribution system,
7 local and State regulators, public interest groups,
8 and consumers in the State or region to be covered
9 by the waiver.

10 The term ‘motor fuel distribution system’ as used in this
11 clause shall be defined by the Administrator through rule-
12 making.

13 “(iv) Within 180 days of the date of the enactment
14 of the Boutique Fuels Reduction Act of 2004, the Admin-
15 istrator shall promulgate regulations to implement clauses
16 (ii) and (iii).

17 “(v) Nothing in this Act shall—

18 “(I) limit or otherwise affect the application of
19 any other waiver authority of the Administrator pur-
20 suant to this section or pursuant to a regulation
21 promulgated pursuant to this section; and

22 “(II) subject any State or person to an enforce-
23 ment action, penalties, or liability solely arising from
24 actions taken pursuant to the issuance of a waiver
25 under this subparagraph.”.

1 **SEC. 3. CAP ON NUMBER OF BOUTIQUE FUELS.**

2 Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.
3 7545(c)(4)), as amended by section 2, is further amended
4 by adding at the end the following:

5 “(vi)(I) The Administrator shall have no authority,
6 when considering a State implementation plan or a State
7 implementation plan revision under this subparagraph, to
8 approve any fuel if the effect of such approval would be
9 to increase the total number of fuels approved and fully
10 implemented as of September 1, 2004 in all State imple-
11 mentation plans.

12 “(II) Except for a fuel with a summertime Reid
13 Vapor Pressure of 7.0 pounds per square inch, the Admin-
14 istrator shall have no authority, when considering any par-
15 ticular State’s implementation plan or a revision to that
16 State’s implementation plan under this subparagraph, to
17 approve any fuel unless that fuel was, as of the date of
18 such consideration, approved and fully implemented in at
19 least 1 State implementation plan in the applicable Petro-
20 leum Administration for Defense District. The preceding
21 sentence shall not limit the Administrator’s authority to
22 approve any new fuel in any such plan or plan revision
23 if such new fuel replaces an existing fuel without increas-
24 ing the total number of fuels approved and fully imple-
25 mented as of September 1, 2004 in all State implementa-
26 tion plans.

1 “(III) Nothing in this clause shall be construed to
2 prohibit a State from requiring the use of any fuel additive
3 registered in accordance with subsection (b), including any
4 fuel additive registered in accordance with subsection (b)
5 after the enactment of this subclause.”.

6 **SEC. 4. STUDY AND REPORT TO CONGRESS ON BOUTIQUE**
7 **FUELS.**

8 (a) JOINT STUDY.—The Administrator of the Envi-
9 ronmental Protection Agency and the Secretary of Energy
10 shall undertake a study of the effects on air quality, on
11 the number of fuel blends, on fuel availability, on fuel
12 fungibility, and on fuel costs of the State plan provisions
13 adopted pursuant to section 211(c)(4)(C) of the Clean Air
14 Act (42 U.S.C. 7545(c)(4)(C)). The primary focus of such
15 study shall be to determine how to develop a Federal fuels
16 system that maximizes motor fuel fungibility and supply,
17 preserves air quality standards, and reduces motor fuel
18 price volatility that results from the proliferation of bou-
19 tique fuels, and to recommend to the Congress such legis-
20 lative changes as are necessary to implement such a sys-
21 tem. In furtherance of such a study, the Administrator
22 and the Secretary shall, as appropriate, review studies and
23 other actions of other Federal agencies concerning bou-
24 tique fuels with a view toward avoiding duplication of ef-
25 fort and the need to expedite such study.

1 (b) STUDY AREAS OF RESPONSIBILITY.—In carrying
2 out the study required by this section, the Administrator
3 shall coordinate obtaining comments from affected parties
4 interested in the air quality impact assessment portion of
5 the study, and the Secretary shall coordinate obtaining
6 comments from affected parties interested in the fuel
7 availability, number of fuel blends, fuel fungibility, and
8 fuel costs portion of the study.

9 (c) REPORT TO CONGRESS.—The Administrator and
10 the Secretary jointly shall submit the results of the study
11 required by this section in a report to the Congress not
12 later than 12 months after the date of the enactment of
13 this Act, together with any recommended regulatory and
14 legislative changes. Such report shall be submitted to the
15 Committee on Energy and Commerce of the House of
16 Representatives and the Committee on Environment and
17 Public Works of the Senate.

18 **SEC. 5. DEFINITIONS.**

19 In this Act:

20 (1) The term “Administrator” means the Ad-
21 ministrator of the Environmental Protection Agency.

22 (2) The term “Secretary” means the Secretary
23 of Energy.

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