

111TH CONGRESS  
2D SESSION

# H. R. 6243

To make the United States exclusively liable for certain claims of liability to the extent such liability is a claim for damages resulting from, or aggravated by, the inclusion of ethanol in transportation fuel.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2010

Mr. GONZALEZ (for himself, Mr. GENE GREEN of Texas, and Mr. RODRIGUEZ) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To make the United States exclusively liable for certain claims of liability to the extent such liability is a claim for damages resulting from, or aggravated by, the inclusion of ethanol in transportation fuel.

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 “American Fuel Protec-  
5 tion Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1           (1) Ethanol is currently widely distributed in  
2           commerce for general use in all conventional gaso-  
3           line-powered onroad and nonroad vehicles and  
4           nonroad engines in widespread use.

5           (2) A decision to increase the current blending  
6           limit of ethanol into gasoline for motor vehicle and  
7           equipment engines requires an agency finding that  
8           the increased emission products will not cause or  
9           contribute to a failure of any emission control device  
10          or system (over the useful life of the motor vehicle,  
11          motor vehicle engine, nonroad engine or nonroad ve-  
12          hicle in which such device or system is used).

13          (3) Significant questions and concerns exist as  
14          to the effects of increasing the current blending limit  
15          of ethanol into gasoline for motor vehicle and equip-  
16          ment engines on the performance of such engines.

17          (4) Effects such as increased engine failures,  
18          decreased engine performance, increased consumer  
19          complaints, increased litigation, or other unforeseen  
20          effects could have a significant impact on interstate  
21          commerce.

22          (5) The Federal Trade Commission has pro-  
23          posed labeling requirements for all fuels distributed  
24          in commerce that exceed the current blending limit  
25          of ethanol into gasoline to disclose to consumers that

1 using such fuels may harm some conventional vehi-  
2 cles.

3 (6) A multi-faceted Federal testing regimen is  
4 currently underway on newer motor vehicles to de-  
5 termine the effects on motor vehicle engines of in-  
6 creasing the current blending limit of ethanol into  
7 gasoline.

8 (7) There is insufficient data on the effects of  
9 increasing the current blending limit of ethanol into  
10 gasoline on older vehicles and nonroad engines.

11 (8) Nonetheless, the executive branch—

12 (A) has statutory authority to increase the  
13 current blending limit of ethanol into gasoline;  
14 and

15 (B) is currently undertaking a process to  
16 reach a decision on this issue.

17 (9) It is appropriate for Congress to mitigate  
18 undue effects on parties engaged in interstate com-  
19 merce resulting from a Federal decision to allow an  
20 increase of the current blending limit of ethanol into  
21 gasoline.

1 **SEC. 3. LIABILITY FOR CLAIMS BASED ON DAMAGES RE-**  
2 **SULTING FROM, OR AGGRAVATED BY, THE IN-**  
3 **CLUSION OF ETHANOL IN CERTAIN FUEL.**

4 (a) **EXCLUSIVE REMEDY AGAINST UNITED**  
5 **STATES.—**

6 (1) Notwithstanding any other provision of law,  
7 any claim of liability described in subsection (b)  
8 against a qualified entity is deemed to be a claim of  
9 liability against the United States, and any such  
10 claim shall lie exclusively against the United States.

11 (2) Sovereign immunity is abrogated as to the  
12 United States to the extent set forth in this section.

13 (b) **CLAIM OF LIABILITY.—**A claim of liability is de-  
14 scribed in this subsection to the extent such liability is  
15 based upon damages resulting from, or aggravated by, the  
16 use of any transportation fuel (as defined in section  
17 211(o) of the Clean Air Act) containing ethanol in con-  
18 centrations greater than 10 percent pursuant to a waiver  
19 under section 211(f)(4) of the Clean Air Act to operate  
20 an internal combustion engine.

21 (c) **LIMIT ON DAMAGES.—**Damages awarded for such  
22 a claim shall not exceed the actual damages sustained by  
23 the claimant.

24 (d) **EXCLUSIVE JURISDICTION.—**The district courts  
25 shall have exclusive jurisdiction of any civil action on a  
26 claim of liability described under subsection (b).

1           (e) DEFINITION.—In this section, the term “qualified  
2 entity” means an entity engaged in the manufacture, use,  
3 sale, or distribution of—

4           (1) transportation fuel or renewable fuel (as de-  
5 fined in section 211(o) of the Clean Air Act); or

6           (2) products which use transportation fuel.

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