

116TH CONGRESS  
1ST SESSION

# H. R. 104

To repeal certain amendments to the Clean Air Act relating to the expansion of the renewable fuel program, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. BURGESS introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To repeal certain amendments to the Clean Air Act relating to the expansion of the renewable fuel program, 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 “Leave Ethanol Vol-  
5 umes at Existing Levels Act” or the “LEVEL Act”.

6 **SEC. 2. REPEAL OF EXPANSION OF RENEWABLE FUEL PRO-**  
7 **GRAM.**

8 (a) DEFINITIONS.—Section 211(o)(1) of the Clean  
9 Air Act (42 U.S.C. 7545(o)(1)) is amended to read as fol-  
10 lows:

1 “(1) DEFINITIONS.—In this section:

2 “(A) CELLULOSIC BIOMASS ETHANOL.—

3 The term ‘cellulosic biomass ethanol’ means  
4 ethanol derived from any lignocellulosic or  
5 hemicellulosic matter that is available on a re-  
6 newable or recurring basis, including—

7 “(i) dedicated energy crops and trees;

8 “(ii) wood and wood residues;

9 “(iii) plants;

10 “(iv) grasses;

11 “(v) agricultural residues;

12 “(vi) fibers;

13 “(vii) animal wastes and other waste  
14 materials; and

15 “(viii) municipal solid waste.

16 The term also includes any ethanol produced in  
17 facilities where animal wastes or other waste  
18 materials are digested or otherwise used to dis-  
19 place 90 percent or more of the fossil fuel nor-  
20 mally used in the production of ethanol.

21 “(B) WASTE DERIVED ETHANOL.—The  
22 term ‘waste derived ethanol’ means ethanol de-  
23 rived from—

1           “(i) animal wastes, including poultry  
2 fats and poultry wastes, and other waste  
3 materials; or

4           “(ii) municipal solid waste.

5           “(C) RENEWABLE FUEL.—

6           “(i) IN GENERAL.—The term ‘renew-  
7 able fuel’ means motor vehicle fuel that—

8           “(I)(aa) is produced from grain,  
9 starch, oilseeds, vegetable, animal, or  
10 fish materials including fats, greases,  
11 and oils, sugarcane, sugar beets,  
12 sugar components, tobacco, potatoes,  
13 or other biomass; or

14           “(bb) is natural gas produced  
15 from a biogas source, including a  
16 landfill, sewage waste treatment plant,  
17 feedlot, or other place where decaying  
18 organic material is found; and

19           “(II) is used to replace or reduce  
20 the quantity of fossil fuel present in a  
21 fuel mixture used to operate a motor  
22 vehicle.

23           “(ii) INCLUSION.—The term renew-  
24 able fuel includes—

1 “(I) cellulosic biomass ethanol  
2 and waste derived ethanol; and

3 “(II) biodiesel (as defined in sec-  
4 tion 312(f) of the Energy Policy Act  
5 of 1992 (42 U.S.C. 13220(f))) and  
6 any blending components derived from  
7 renewable fuel (provided that only the  
8 renewable fuel portion of any such  
9 blending component shall be consid-  
10 ered part of the applicable volume  
11 under the renewable fuel program es-  
12 tablished by this subsection).

13 “(D) SMALL REFINERY.—The term ‘small  
14 refinery’ means a refinery for which the average  
15 aggregate daily crude oil throughput for a cal-  
16 endar year (as determined by dividing the ag-  
17 gregate throughput for the calendar year by the  
18 number of days in the calendar year) does not  
19 exceed 75,000 barrels.”.

20 (b) RENEWABLE FUEL PROGRAM.—Paragraph (2) of  
21 section 211(o) of the Clean Air Act (42 U.S.C.  
22 7545(o)(2)) is amended as follows:

23 (1) REGULATIONS.—Clause (i) of subparagraph  
24 (A) is amended by striking the last sentence.

1           (2) APPLICABLE VOLUMES OF RENEWABLE  
2 FUEL.—Subparagraph (B) is amended to read as  
3 follows:

4                   “(B) APPLICABLE VOLUME.—For the pur-  
5           pose of subparagraph (A), the applicable vol-  
6           ume of renewable fuel for each calendar year  
7           shall be 7,500,000,000 gallons.”.

8           (c) APPLICABLE PERCENTAGES.—Paragraph (3) of  
9 section 211(o) of the Clean Air Act (42 U.S.C.  
10 7545(o)(3)) is amended as follows:

11                   (1) In subparagraph (A), by striking “each of  
12           calendar years 2005 through 2021” and inserting  
13           “each calendar year”.

14                   (2) In subparagraph (A), by striking “transpor-  
15           tation fuel, biomass-based diesel, and cellulosic  
16           biofuel” and inserting “gasoline”.

17                   (3) In subparagraph (B)(i), by striking “each  
18           of calendar years 2005 through 2021” and inserting  
19           “each calendar year”.

20                   (4) In subparagraph (B), by striking “transpor-  
21           tation fuel” and inserting “gasoline” in clause  
22           (ii)(II).

23           (d) CELLULOSIC BIOMASS ETHANOL OR WASTE DE-  
24 RIVED ETHANOL.—Paragraph (4) of section 211(o) of the

1 Clean Air Act (42 U.S.C. 7545(o)(4)) is amended to read  
2 as follows:

3           “(4) CELLULOSIC BIOMASS ETHANOL OR WASTE  
4           DERIVED ETHANOL.—For the purpose of paragraph  
5           (2), 1 gallon of cellulosic biomass ethanol or waste  
6           derived ethanol shall be considered to be the equiva-  
7           lent of 2.5 gallons of renewable fuel.”.

8           (e) CREDIT PROGRAM.—Paragraph (5) of section  
9 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(5)) is  
10 amended by striking subparagraph (E).

11           (f) WAIVERS.—

12           (1) IN GENERAL.—Paragraph (7) of section  
13 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(7))  
14 is amended—

15           (A) in subparagraph (A), by striking “, by  
16           any person subject to the requirements of this  
17           subsection, or by the Administrator on his own  
18           motion”; and

19           (B) by inserting “State” before “petition  
20           for a waiver” in subparagraph (B).

21           (2) CELLULOSIC BIOFUEL.—Paragraph (7) of  
22 section 211(o) of the Clean Air Act (42 U.S.C.  
23 7545(o)(7)) is amended by striking subparagraph  
24 (D).

1           (3) BIOMASS-BASED DIESEL.—Paragraph (7) of  
2           section 211(o) of the Clean Air Act (42 U.S.C.  
3           7545(o)(7)) is amended by striking subparagraphs  
4           (E) and (F).

5           (g) PERIODIC REVIEWS.—Section 211(o) of the  
6           Clean Air Act (42 U.S.C. 7545(o)) is amended by striking  
7           paragraph (11).

8           (h) SAVINGS CLAUSE.—Section 211(o) of the Clean  
9           Air Act (42 U.S.C. 7545(o)) is amended by striking para-  
10          graph (12).

11          (i) REGULATIONS.—Section 211 of the Clean Air Act  
12          (42 U.S.C. 7545) is amended by striking paragraph (2)  
13          of subsection (v).

14          (j) OTHER PROVISIONS.—

15               (1) ENVIRONMENTAL AND RESOURCE CON-  
16               SERVATION IMPACTS.—Section 204(b) of the Energy  
17               Independence and Security Act of 2007 (Public Law  
18               110–140) is repealed.

19               (2) EFFECTIVE DATE, SAVINGS PROVISION, AND  
20               TRANSITION RULES.—Section 210 of the Energy  
21               Independence and Security Act of 2007 (Public Law  
22               110–140) is repealed.

23          (k) EFFECTIVE DATE.—The amendments made by  
24          this section shall take effect on January 1 of the first cal-  
25          endar year following the date of enactment of this Act.

1 (l) ESTIMATES FOR FIRST CALENDAR YEAR.—Prior  
2 to January 1 of the first calendar year following the date  
3 of enactment of this Act—

4 (1) the Administrator of the Energy Informa-  
5 tion Administration shall provide to the Adminis-  
6 trator of the Environmental Protection Agency an  
7 estimate, under section 211(o)(3) of the Clean Air  
8 Act, as amended by this Act, with respect to such  
9 calendar year, of the volumes of gasoline projected  
10 to be sold or introduced into commerce in the United  
11 States; and

12 (2) based on the estimate provided under para-  
13 graph (1), the Administrator of the Environmental  
14 Protection Agency shall determine and publish in  
15 the Federal Register, with respect to such calendar  
16 year, the renewable fuel obligation for such calendar  
17 year under section 211(o)(3) of the Clean Air Act,  
18 as amended by this Act.

19 **SEC. 3. PROHIBITION OF AUTHORIZATION OF HIGHER ETH-**  
20 **ANOL BLENDS.**

21 (a) PROHIBITION.—Notwithstanding any provision of  
22 the Clean Air Act (42 U.S.C. 7401 et seq.), the Adminis-  
23 trator of the Environmental Protection Agency may not  
24 permit or authorize (including by granting a waiver  
25 through the fuels and fuel additives waiver process under



1 section 211(f)(4) of such Act (42 U.S.C. 7545(f)(4))) the  
2 introduction into commerce of gasoline that—

3 (1) contains greater than 10-volume-percent  
4 ethanol;

5 (2) is intended for general use in conventional  
6 gasoline-powered onroad or nonroad vehicles or en-  
7 gines; and

8 (3) is not, on or before the date of enactment  
9 of this Act—

10 (A) registered in accordance with section  
11 211(b) of such Act (42 U.S.C. 7545(b)); and

12 (B) lawfully sold in the United States.

13 (b) REPEAL OF EXISTING WAIVERS.—

14 (1) IN GENERAL.—Any waiver described in  
15 paragraph (2) is repealed and shall have no force or  
16 effect.

17 (2) WAIVER.—A waiver described in this para-  
18 graph—

19 (A) is a waiver granted pursuant to section  
20 211(f)(4) of the Clean Air Act (42 U.S.C.  
21 7545(f)(4)) prior to the date of enactment of  
22 this Act that permits or authorizes the intro-  
23 duction into commerce of gasoline that contains  
24 greater than 10-volume-percent ethanol for gen-

1           eral use in conventional gasoline-powered  
2           onroad or nonroad vehicles or engines; and

3           (B) includes the following:

4                   (i) “Partial Grant and Partial Denial  
5                   of Clean Air Act Waiver Application Sub-  
6                   mitted by Growth Energy To Increase the  
7                   Allowable Ethanol Content of Gasoline to  
8                   15 Percent; Decision of the Administrator”  
9                   published at 75 Fed. Reg. 68094 (Novem-  
10                  ber 4, 2010).

11                  (ii) “Partial Grant of Clean Air Act  
12                  Waiver Application Submitted by Growth  
13                  Energy To Increase the Allowable Ethanol  
14                  Content of Gasoline to 15 Percent; Deci-  
15                  sion of the Administrator” published at 76  
16                  Fed. Reg. 4662 (January 26, 2011).

17           (3) EXCEPTION.—Paragraph (1) shall not  
18           apply with respect to a waiver to the extent such  
19           waiver permits or authorizes the introduction into  
20           commerce of gasoline—

21                   (A) that is described in paragraph (2)(A);

22           and

23                   (B) that is, on or before the date of enact-  
24           ment of this Act—

1 (i) registered in accordance with sec-  
2 tion 211(b) of the Clean Air Act (42  
3 U.S.C. 7545(b)); and

4 (ii) lawfully sold in the United States.

5 (c) STUDY.—Not later than 2 years after the date  
6 of enactment of this Act, the Administrator of the Envi-  
7 ronmental Protection Agency shall conduct, and submit to  
8 Congress the results of, a comprehensive study on—

9 (1) the effects of the introduction into com-  
10 merce of an ethanol-gasoline blend described in sub-  
11 section (b)(2)(A) on consumer products, including—

12 (A) onroad and nonroad vehicles;

13 (B) nonroad engines (such as lawn mow-  
14 ers); and

15 (C) any other applicable gasoline-powered  
16 vehicles, engines, and devices;

17 (2) the impact of an ethanol-gasoline blend de-  
18 scribed in subsection (b)(2)(A) on—

19 (A) engine performance of conventional  
20 gasoline-powered onroad and nonroad vehicles  
21 and nonroad engines;

22 (B) emissions from the use of the blend;  
23 and

24 (C) materials compatibility and consumer  
25 safety issues associated with the use of such

1           blend (including the identification of insufficient  
2           data or information for some or all of such ve-  
3           hicles and engines with respect to each of the  
4           issues described in this subparagraph and sub-  
5           paragraphs (A) and (B)); and  
6           (3) the ability of wholesale and retail gasoline  
7           distribution infrastructure, including bulk storage,  
8           retail storage configurations, and retail equipment  
9           (including certification of equipment compatibility by  
10          independent organizations), to introduce such an  
11          ethanol-gasoline blend into commerce without wide-  
12          spread intentional or unintentional misfueling by  
13          consumers.

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