

116TH CONGRESS
1ST SESSION

H. R. 4690

To amend title II of the Clean Air Act and title II of the Petroleum Marketing Practices Act with respect to high-octane fuels, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2019

Mr. FLORES (for himself and Mr. SHIMKUS) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To amend title II of the Clean Air Act and title II of the Petroleum Marketing Practices Act with respect to high-octane 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “21st Century Transportation Fuels Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HIGH-OCTANE FUEL

Sec. 101. High efficiency vehicles.

- Sec. 102. Octane disclosure.
 Sec. 103. 98 RON certification test fuel.
 Sec. 104. Octane sensitivity study.
 Sec. 105. Advertisement of price of 95 RON automotive fuel.

TITLE II—RENEWABLE FUELS

Subtitle A—Renewable Fuel Program

- Sec. 201. Updates and revisions to regulations.
 Sec. 202. Waivers.
 Sec. 203. Applicability.
 Sec. 204. State ethanol laws.

Subtitle B—Ethanol Waivers

- Sec. 211. Reid vapor pressure.
 Sec. 212. E20.

Subtitle C—Fueling Infrastructure

- Sec. 221. Performance standards for new E20 infrastructure.

TITLE III—VEHICLE FUEL EFFICIENCY

- Sec. 301. Credits for exceeding average fuel economy standards.
 Sec. 302. Calculation of average fuel economy.
 Sec. 303. Rule of construction.

1 **TITLE I—HIGH-OCTANE FUEL**

2 **SEC. 101. HIGH EFFICIENCY VEHICLES.**

3 (a) REQUIREMENTS.—Part A of title II of the Clean
 4 Air Act (42 U.S.C. 7521 et seq.) is amended by adding
 5 at the end the following new section:

6 **“SEC. 220. OCTANE SPECIFICATION.**

7 “(a) APPLICABILITY.—This section applies with re-
 8 spect to any motor vehicle (other than a motorcycle) that
 9 is introduced into commerce that—

10 “(1) is a light-duty vehicle or light-duty truck;

11 “(2) is a model year 2023 or later motor vehi-
 12 cle; and

1 “(3) uses gasoline for propulsion or any other
2 operation of the motor vehicle, including the engine
3 thereof.

4 “(b) WARRANTY REQUIREMENTS.—The manufac-
5 turer of a motor vehicle described in subsection (a) shall
6 warrant to the ultimate purchaser and each subsequent
7 purchaser that each such motor vehicle is designed—

8 “(1) to operate with gasoline containing up to
9 and including 20 percent ethanol; and

10 “(2) to meet the design requirements under
11 subsection (c).

12 “(c) DESIGN REQUIREMENTS.—The manufacturer of
13 a motor vehicle described in subsection (a) shall—

14 “(1) design each such motor vehicle—

15 “(A) to operate using gasoline that has a
16 research octane number of 95 or higher; and

17 “(B) to improve fuel economy connected to
18 the use of gasoline that has a research octane
19 number of 95 or higher; and

20 “(2) incorporate into each such motor vehicle
21 devices or elements of design (including physical or
22 other barriers, devices, or technological systems) as
23 are determined by the Administrator to be—

1 “(A) necessary to prevent the introduction
2 of gasoline with a research octane number that
3 is lower than 95 into such motor vehicle; and

4 “(B) technically and economically feasible.

5 “(d) INFRASTRUCTURE REQUIREMENTS.—Any gaso-
6 line retailer selling gasoline for dispensing into motor vehi-
7 cles described in subsection (a) shall incorporate into the
8 retailer’s dispensing equipment such devices or elements
9 of design as are determined by the Administrator to be—

10 “(1) necessary for compatibility with the motor
11 vehicle design requirements under subsection (c)(2);
12 and

13 “(2) technically and economically feasible.

14 “(e) MISFUELING.—

15 “(1) PROHIBITIONS AGAINST TAMPERING AND
16 DEFEAT DEVICES FOR MOTOR VEHICLES.—In lieu of
17 applying section 203(a)(3) with respect to this sec-
18 tion, the following shall apply:

19 “(A) No person shall—

20 “(i) remove or render inoperative any
21 device or element of design installed on or
22 in a motor vehicle pursuant to subsection
23 (c)(2) prior to its sale and delivery to the
24 ultimate purchaser; or

1 “(ii) knowingly remove or render inop-
2 erative any such device or element of de-
3 sign after such sale and delivery to the ul-
4 timate purchaser.

5 “(B) No person shall manufacture or sell,
6 or offer to sell, or install, any part or compo-
7 nent intended for use with, or as part of, any
8 motor vehicle, where—

9 “(i) a principal effect of the part or
10 component is to bypass, defeat, or render
11 inoperative any device or element of design
12 installed on or in a motor vehicle pursuant
13 to subsection (c)(2); and

14 “(ii) the person knows or should know
15 that such part or component is being of-
16 fered for sale or installed for such use or
17 put to such use.

18 “(2) PROHIBITIONS AGAINST TAMPERING AND
19 DEFEAT DEVICES FOR DISPENSING EQUIPMENT.—

20 “(A) No person shall knowingly remove or
21 render inoperative any device or element of de-
22 sign incorporated into dispensing equipment
23 pursuant to subsection (d).

24 “(B) No person shall manufacture or sell,
25 or offer to sell, or incorporate into, any part or

1 component intended for use with, or as part of,
2 any dispensing equipment, where—

3 “(i) a principal effect of the part or
4 component is to bypass, defeat, or render
5 inoperative any device or element of design
6 incorporated into dispensing equipment
7 pursuant to subsection (d); and

8 “(ii) the person knows or should know
9 that such part or component is being of-
10 fered for sale or incorporated for such use
11 or put to such use.

12 “(3) LIMITATION ON LIABILITY.—A manufac-
13 turer of a motor vehicle, or a gasoline retailer, that
14 is in compliance with the requirements of this sec-
15 tion and the requirements of the Petroleum Mar-
16 keting Practices Act, shall not be liable under any
17 provision of this Act or any other Federal, State, or
18 local law, including common law, for damages—

19 “(A) to or caused by a motor vehicle de-
20 scribed in subsection (a); and

21 “(B) that would not have occurred but for
22 the introduction of gasoline with a research oc-
23 tane number that is lower than 95 into such
24 motor vehicle.

25 “(f) PREEMPTION.—

1 “(1) IN GENERAL.—No State or any political
2 subdivision thereof may adopt or continue in effect
3 any provision of law or regulation with respect to the
4 design of motor vehicles to operate using gasoline
5 with a certain octane content, or the corresponding
6 design of equipment for dispensing such gasoline
7 into such motor vehicles, unless such provision of
8 such law or regulation is the same as the cor-
9 responding provision in this section.

10 “(2) INVESTIGATIVE OR ENFORCEMENT AC-
11 TIONS.—A State or political subdivision thereof may
12 provide for any investigative or enforcement action,
13 remedy, or penalty (including procedural actions
14 necessary to carry out such investigative or enforce-
15 ment actions, remedies, or penalties) with respect to
16 any provision of law or regulation permitted by
17 paragraph (1).

18 “(g) ENFORCEMENT.—

19 “(1) VIOLATIONS.—

20 “(A) MANUFACTURER.—Any manufacturer
21 who violates subsection (b) or (c) shall be sub-
22 ject to a civil penalty of not more than \$25,000.
23 Any such violation shall constitute a separate
24 offense with respect to each motor vehicle.

1 “(B) GASOLINE RETAILER.—Any gasoline
2 retailer who violates subsection (d) shall be sub-
3 ject to a civil penalty of not more than \$2,500.
4 Any such violation shall constitute a separate
5 offense with respect to each dispensing equip-
6 ment.

7 “(C) MISFUELING.—

8 “(i) IN GENERAL.—Any person who
9 violates subsection (e) shall be subject to a
10 civil penalty of not more than \$2,500.

11 “(ii) SEPARATE OFFENSES.—Any
12 such violation shall constitute a separate
13 offense with respect to—

14 “(I) each motor vehicle, for pur-
15 poses of paragraph (1)(A) of such
16 subsection;

17 “(II) each dispensing equipment,
18 for purposes of paragraph (2)(A) of
19 such subsection; and

20 “(III) each part or component,
21 for purposes of paragraph (1)(B) or
22 (2)(B) of such subsection.

23 “(2) CIVIL ACTIONS; ADMINISTRATIVE ASSESS-
24 MENT OF CERTAIN PENALTIES.—The provisions of
25 subsections (b) and (c) of section 205 shall apply

1 with respect to a violation of subsection (b), (c), (d),
2 or (e) of this section to the same extent and in the
3 same manner as such provisions apply with respect
4 to a violation of section 203(a)(3).

5 “(h) CONSULTATION.—

6 “(1) IN GENERAL.—In promulgating regula-
7 tions to carry out this section, the Administrator
8 shall consult with persons to be regulated under this
9 section.

10 “(2) CERTAIN DESIGN REQUIREMENTS.—In
11 promulgating regulations to carry out subsection
12 (c)(2), the Administrator shall consult with the Sec-
13 retary of Transportation in addition to the persons
14 described in paragraph (1).

15 “(i) RULE OF CONSTRUCTION.—Nothing in this sec-
16 tion shall be construed to relieve a person regulated under
17 this section of any obligation to comply with requirements
18 imposed by provisions of Federal law other than this sec-
19 tion, except to the extent that such requirements are in
20 conflict with this section.”.

21 (b) DEFINITIONS.—Section 216 of the Clean Air Act
22 (42 U.S.C. 7550) is amended—

23 (1) in paragraph (1), by striking “and 208”
24 and inserting “208, and 220”; and

25 (2) by adding at the end the following:

1 “(12) RESEARCH OCTANE NUMBER.—The term
2 ‘research octane number’ has the meaning given
3 such term in section 201 of the Petroleum Mar-
4 keting Practices Act.”.

5 (c) REGULATIONS.—

6 (1) PROMULGATION.—The Administrator of the
7 Environmental Protection Agency shall—

8 (A) not later than 18 months after the
9 date of enactment of this Act, propose regula-
10 tions to carry out the amendments made by this
11 section; and

12 (B) not later than 36 months after such
13 date of enactment, finalize regulations to carry
14 out the amendments made by this section.

15 (2) FAILURE TO PROMULGATE.—Beginning on
16 the deadline in paragraph (1)(B) for finalizing regu-
17 lations pursuant to such paragraph, until the Ad-
18 ministrator finalizes such regulations, the Adminis-
19 trator is deemed—

20 (A) to have determined under section
21 220(c)(2) of the Clean Air Act, as added by
22 subsection (a) of this section, that each manu-
23 facturer of a motor vehicle subject to such sec-
24 tion 220(c)(2) shall incorporate a restrictor as-
25 sembly into the vehicle’s fuel filler tube so as to

1 accept only a filling nozzle described in sub-
2 paragraph (B); and

3 (B) to have determined under section
4 220(d) of such Act that the diameter of each
5 filling nozzle used by a gasoline retailer for dis-
6 pensing gasoline with a research octane number
7 of 95 or higher into a motor vehicle subject to
8 such section 220(c) shall not exceed 0.77
9 inches.

10 **SEC. 102. OCTANE DISCLOSURE.**

11 (a) HIGH EFFICIENCY FUELS.—Title II of the Petro-
12 leum Marketing Practices Act (15 U.S.C. 2821 et seq.)
13 is amended by adding at the end the following:

14 **“SEC. 206. HIGH EFFICIENCY FUEL AND VEHICLE MAR-**
15 **KETING REQUIREMENTS.**

16 “(a) RULE.—The Federal Trade Commission shall,
17 by rule, and in consultation with persons to be regulated
18 under this section, consumer advocates, and other stake-
19 holders, as appropriate—

20 “(1) prescribe or revise requirements under this
21 title relating to the certification, display, and rep-
22 resentation of the automotive fuel rating of an auto-
23 motive fuel as necessary to carry out—

24 “(A) the requirement under subsection (b);
25 and

1 “(B) any determination made under sub-
2 section (c);

3 “(2) make the determination required under
4 subsection (c); and

5 “(3) prescribe requirements under subsection
6 (d).

7 “(b) REQUIREMENT.—The Federal Trade Commis-
8 sion shall require that, for purposes of this title, effective
9 January 1, 2023, the automotive fuel rating of an auto-
10 motive fuel with a research octane number of 95 or higher
11 be determined only by the research octane number of such
12 automotive fuel.

13 “(c) DETERMINATION.—The Federal Trade Commis-
14 sion shall determine whether, for purposes of this title,
15 effective January 1, 2023, the automotive fuel rating of
16 an automotive fuel with a research octane number that
17 is lower than 95 should be determined only by the research
18 octane number of such automotive fuel.

19 “(d) LABELING.—

20 “(1) IN GENERAL.—The Federal Trade Com-
21 mission shall prescribe requirements—

22 “(A) as the Federal Trade Commission de-
23 termines necessary with respect to a display at
24 the point of sale to ultimate purchasers of auto-

1 motive fuel and a display on a motor vehicle
2 to—

3 “(i) inform such ultimate purchaser of
4 such automotive fuel and any purchaser or
5 user of such motor vehicle, that a model
6 year 2023 or later motor vehicle is only
7 warranted to use automotive fuel with a
8 research octane number of 95 or higher;
9 and

10 “(ii) provide a warning to such ultimate
11 purchaser of such automotive fuel
12 and any such purchaser or user of such
13 motor vehicle, that the use of automotive
14 fuel with a research octane number that is
15 lower than 95 in a model year 2023 or
16 later motor vehicle will result in reduced
17 fuel economy, increased exhaust emissions,
18 and possible engine damage; and

19 “(B) that are applicable to—

20 “(i) a manufacturer of a new motor
21 vehicle (or an entity making a representa-
22 tion in connection with the sale of such
23 motor vehicle) with respect to a display on
24 such motor vehicle; and

1 “(ii) an automotive fuel retailer, with
2 respect to a display at the point of sale to
3 an ultimate purchaser of automotive fuel.

4 “(2) CONSIDERATIONS.—In prescribing require-
5 ments under paragraph (1), the Federal Trade Com-
6 mission shall ensure that such requirements are de-
7 signed to be—

8 “(A) understandable to—

9 “(i) the ultimate purchaser of auto-
10 motive fuel; and

11 “(ii) any purchaser or user of a model
12 year 2023 or later motor vehicle; and

13 “(B) cost-effective for automotive fuel re-
14 tailers.

15 “(e) DEADLINES.—The Federal Trade Commission
16 shall—

17 “(1) not later than June 1, 2020, issue a pro-
18 posed rule under subsection (a); and

19 “(2) not later than January 1, 2022, issue a
20 final rule under subsection (a).”.

21 (b) ENFORCEMENT.—Section 203(e) of the Petro-
22 leum Marketing Practices Act (15 U.S.C. 2823(e)) is
23 amended—

24 (1) by striking “or a rule prescribed” and in-
25 serting “a rule prescribed”; and

1 (2) by striking “of such section.” and inserting
2 “of section 202, or a rule prescribed under section
3 206.”.

4 (c) TABLE OF CONTENTS AMENDMENT.—The table
5 of contents for the Petroleum Marketing Practices Act (15
6 U.S.C. 2801 et seq.) is amended by inserting after the
7 item relating to section 205 the following:

“Sec. 206. High efficiency fuel and vehicle marketing requirements.”.

8 **SEC. 103. 98 RON CERTIFICATION TEST FUEL.**

9 Not later than January 1, 2025, the Administrator
10 of the Environmental Protection Agency shall take such
11 actions as are necessary to allow the use of a certification
12 test fuel with a research octane number of 98 for purposes
13 of—

14 (1) testing and certification under section
15 206(a) of the Clean Air Act (42 U.S.C. 7525(a)) of
16 motor vehicles described in section 220(a) of the
17 Clean Air Act (as added by section 101(a) of this
18 Act); and

19 (2) testing and calculation procedures under
20 section 32904(c) of title 49, United States Code,
21 with respect to such motor vehicles.

22 **SEC. 104. OCTANE SENSITIVITY STUDY.**

23 (a) STUDY.—

1 (1) IN GENERAL.—The Administrator shall
2 seek to enter into appropriate arrangements with the
3 Academy to—

4 (A) conduct a comprehensive study of the
5 octane sensitivity of automotive fuel with a re-
6 search octane number of 95 or higher; and

7 (B) submit reports described in subsection
8 (b).

9 (2) CONTENTS.—In conducting the study under
10 paragraph (1), the Academy shall examine—

11 (A) the octane sensitivity of automotive
12 fuel introduced into commerce for use in light-
13 duty motor vehicles as of the date of enactment
14 of this section;

15 (B) the economic and technological feasi-
16 bility and impacts of adjusting the octane sensi-
17 tivity of automotive fuel with a research octane
18 number of 95 or higher to increase automobile
19 and fuel efficiency performance;

20 (C) environmental and public health out-
21 comes from increasing the octane sensitivity of
22 automotive fuel with a research octane number
23 of 95 or higher; and

24 (D) the acceptability of the commercial
25 marketplace, including refiners, automotive fuel

1 retailers, manufacturers, and ultimate users, of
2 increasing the octane sensitivity of automotive
3 fuel with a research octane number of 95 or
4 higher.

5 (3) INFORMATION.—The Administrator shall
6 provide the Academy, at its request, any information
7 which the Academy determines necessary to conduct
8 the study under paragraph (1).

9 (b) REPORTS.—

10 (1) INTERIM REPORTS.—Not later than July 1,
11 2019, and every 6 months thereafter until a final re-
12 port is submitted under paragraph (2), the Academy
13 shall submit to Congress and the Administrator a
14 report on the progress of the study conducted under
15 subsection (a).

16 (2) FINAL REPORT.—Not later than December
17 31, 2021, the Academy shall submit to Congress and
18 the Administrator a final report on the study con-
19 ducted under subsection (a).

20 (c) DEFINITIONS.—In this section:

21 (1) ACADEMY.—The term “Academy” means
22 the National Academy of Sciences, or if the National
23 Academy of Sciences declines to enter into an ar-
24 rangement pursuant to subsection (a), another ap-
25 propriate entity.

1 (2) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (3) OCTANE SENSITIVITY.—The term “octane
5 sensitivity” means, with respect to automotive fuel
6 used in an automotive spark-ignition engine, the dif-
7 ference between the research octane number and the
8 motor octane number for such automotive fuel.

9 (4) RESEARCH OCTANE NUMBER AND MOTOR
10 OCTANE NUMBER.—The terms “research octane
11 number” and “motor octane number” have the
12 meaning given such terms in section 201 of the Pe-
13 troleum Marketing Practices Act (15 U.S.C. 2821).

14 **SEC. 105. ADVERTISEMENT OF PRICE OF 95 RON AUTO-**
15 **MOTIVE FUEL.**

16 (a) IN GENERAL.—It shall be unlawful for any per-
17 son to sell or offer for sale, at retail, automotive fuel with
18 a research octane number of 95 unless such person dis-
19 plays, in a manner specified in the rules promulgated
20 under subsection (b), the total price per gallon of such
21 fuel on any sign on which such person displays the price
22 of the most-sold grade of automotive fuel of such person.

23 (b) RULEMAKING.—

24 (1) IN GENERAL.—Not later than 6 months
25 after the date of the enactment of this Act, the Fed-

1 eral Trade Commission shall promulgate, in accord-
2 ance with section 553 of title 5, United States Code,
3 any rules necessary for the implementation and en-
4 forcement of this section.

5 (2) CONTENTS.—Such rules—

6 (A) shall define “retail” and “most-sold”
7 for the purposes of this section;

8 (B) shall specify the manner in which the
9 price of automotive fuel with a research octane
10 number of 95 must be displayed in order to
11 comply with subsection (a); and

12 (C) shall be consistent with the require-
13 ments for declaring unfair acts or practices in
14 section 5(n) of the Federal Trade Commission
15 Act (15 U.S.C. 45(n)).

16 (c) ENFORCEMENT.—A violation of subsection (a)
17 shall be treated as a violation of a rule defining an unfair
18 or deceptive act or practice prescribed under section
19 18(a)(1)(B) of the Federal Trade Commission Act (15
20 U.S.C. 57a(a)(1)(B)). The Federal Trade Commission
21 shall enforce this section in the same manner, by the same
22 means, and with the same jurisdiction, powers, and duties
23 as though all applicable terms and provisions of the Fed-
24 eral Trade Commission Act (15 U.S.C. 41 et seq.) were
25 incorporated into and made part of this section.

1 (d) SUNSET.—Effective January 1, 2029, this section
2 is repealed.

3 **TITLE II—RENEWABLE FUELS**
4 **Subtitle A—Renewable Fuel**
5 **Program**

6 **SEC. 201. UPDATES AND REVISIONS TO REGULATIONS.**

7 (a) REGULATIONS.—

8 (1) ADDITION OF CONVENTIONAL BIOFUEL.—
9 Clause (i) of section 211(o)(2)(A) of the Clean Air
10 Act (42 U.S.C. 7545(o)(2)(A)) is amended to read
11 as follows:

12 “(i) IN GENERAL.—The Administrator
13 shall by regulation require—

14 “(I) transportation fuel sold or
15 introduced into commerce in the
16 United States (except in noncontig-
17 uous States or territories), on an an-
18 nual average basis, contains at least
19 the applicable volume of renewable
20 fuel, advanced biofuel, cellulosic
21 biofuel, conventional biofuel, and bio-
22 mass-based diesel, determined in ac-
23 cordance with subparagraph (B); and

24 “(II) renewable fuel produced
25 from facilities that commenced con-

1 construction after December 19, 2007
2 (the date of enactment of the Energy
3 Independence and Security Act of
4 2007), achieves at least a 20-percent
5 reduction in lifecycle greenhouse gas
6 emissions compared to baseline
7 lifecycle greenhouse gas emissions.”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) Section 211(o)(2)(A) of the Clean Air
10 Act (42 U.S.C. 7545(o)(2)(A)) is amended by
11 striking clause (iv).

12 (B) Subparagraph (A) of section 211(o)(4)
13 of the Clean Air Act (42 U.S.C. 7545(o)(4)(A))
14 is amended by striking “the last sentence of”.

15 (C) Subparagraph (E) of section 211(o)(4)
16 of the Clean Air Act (42 U.S.C. 7545(o)(4)(E))
17 is amended by striking “the last sentence of”.

18 (b) APPLICABLE VOLUME OF CONVENTIONAL
19 BIOFUEL.—Section 211(o)(2)(B)(i) of the Clean Air Act
20 (42 U.S.C. 7545(o)(2)(B)(i)) is amended to by adding at
21 the end the following:

22 “(V) CONVENTIONAL BIOFUEL.—
23 “(aa) IN GENERAL.—For
24 the purpose of subparagraph (A),
25 of the volume of renewable fuel

1 required under subclause (I), the
 2 applicable volume of conventional
 3 biofuel for the calendar years
 4 2020 through 2022 shall be de-
 5 termined in accordance with the
 6 following table:

“Calendar year:	Applicable volume of conventional biofuel (in billions of gal- lons):
2020	15
2021	15
2022	15.

7 “(bb) APPLICABILITY.—This
 8 subclause shall cease to apply on
 9 January 1, 2023.”.

10 (c) OTHER CALENDAR YEARS.—

11 (1) IN GENERAL.—Section 211(o)(2)(B) of the
 12 Clean Air Act (42 U.S.C. 7545(o)(2)(B)) is amend-
 13 ed by striking clauses (ii) through (v) and inserting
 14 the following:

15 “(ii) SUBSEQUENT CALENDAR
 16 YEARS.—For the purposes of subpara-
 17 graph (A), the applicable volumes of ad-
 18 vanced biofuel, cellulosic biofuel, and bio-
 19 mass-based diesel for each of calendar
 20 years 2023 through 2032 shall be—

1 “(I) determined by the Adminis-
2 trator not later than March 1 of such
3 calendar year; and

4 “(II) subject to adjustment pur-
5 suant to the mid-year review under
6 clause (iv)(II), equal to the actual vol-
7 ume of advanced biofuel, cellulosic
8 biofuel, or biomass-based diesel, re-
9 spectively, produced during the pre-
10 ceding calendar year, as determined
11 under clause (iv)(I).

12 “(iii) SPECIAL RULE FOR SUBSE-
13 QUENT CALENDAR YEARS FOR BIOMASS-
14 BASED DIESEL.—The applicable volume of
15 biomass-based diesel for each of calendar
16 years 2020 through 2022 shall be deter-
17 mined in accordance with this subpara-
18 graph, as in effect on the day before the
19 date of enactment of the 21st Century
20 Transportation Fuels Act.

21 “(iv) DETERMINATION OF ACTUAL
22 PRODUCTION.—

23 “(I) IN GENERAL.—Not later
24 than February 28 of a calendar year
25 described in clause (ii), the Adminis-

1 trator shall, based on information
2 from the Moderated Transaction Sys-
3 tem, determine—

4 “(aa) the actual volume pro-
5 duced during the preceding cal-
6 endar year of advanced biofuel;
7 and

8 “(bb) of such actual volume,
9 the actual volume of each of cel-
10 lulosic biofuel, biomass-based die-
11 sel, and other advanced biofuel.

12 “(II) MID-YEAR REVIEW.—Not
13 later than September 1 of each cal-
14 endar year described in clause (ii), the
15 Administrator shall adjust the appli-
16 cable volume requirement under
17 clause (ii) for the calendar year for
18 advanced biofuel, cellulosic biofuel, or
19 biomass-based diesel to reflect any in-
20 crease in production during that cal-
21 endar year, based on information from
22 the Moderated Transaction System.”.

23 (2) CONFORMING DEFINITION.—Section
24 211(o)(1) of the Clean Air Act (42 U.S.C.
25 7545(o)(1)) is amended—

1 (A) by redesignating subparagraphs (I)
2 through (L) as subparagraphs (J) through (M),
3 respectively; and

4 (B) by inserting, after subparagraph (H),
5 the following:

6 “(I) MODERATED TRANSACTION SYS-
7 TEM.—The term ‘Moderated Transaction Sys-
8 tem’ means—

9 “(i) the EPA Moderated Transaction
10 System as defined in section 80.1401 of
11 title 40, Code of Federal Regulations (or
12 successor regulations); or

13 “(ii) any successor system.”.

14 (d) DEFINITION OF RENEWABLE BIOMASS.—Sub-
15 paragraph (J) of section 211(o)(1) of the Clean Air Act
16 (42 U.S.C. 7545(o)(1)), as redesignated by subsection
17 (c)(2) of this section, is amended—

18 (1) in clause (i), by striking “at any time prior
19 to the enactment of this sentence”;

20 (2) by amending clause (ii) to read as follows:

21 “(ii) Trees and tree residue from
22 land, including land belonging to an Indian
23 tribe or an Indian individual that is held in
24 trust by the United States or subject to a

1 restriction against alienation imposed by
2 the United States.”; and

3 (3) in clause (iv), by striking “non-federal”.

4 **SEC. 202. WAIVERS.**

5 Subject to section 203(c) of this Act, section
6 211(o)(7) of the Clean Air Act (42 U.S.C. 7545(o)(7)) is
7 amended—

8 (1) in subparagraph (A), by striking “the na-
9 tional quantity of renewable fuel” and inserting “the
10 national quantity of advanced biofuel, cellulosic
11 biofuel, or biomass-based diesel”; and

12 (2) by striking subparagraphs (D), (E), and
13 (F).

14 **SEC. 203. APPLICABILITY.**

15 (a) **APPLICABLE CALENDAR YEARS.**—Except as pro-
16 vided in subsections (b) through (e), the amendments
17 made by this subtitle apply with respect to calendar year
18 2020 and subsequent calendar years. Section 211(o) of the
19 Clean Air Act (42 U.S.C. 7545(o)), as in effect on the
20 day before the date of enactment of this Act, shall con-
21 tinue to apply with respect to calendar years before cal-
22 endar year 2020.

23 (b) **REGULATIONS.**—The Administrator of the Envi-
24 ronmental Protection Agency shall—

1 (1) not later than 180 days after the date of
2 enactment of this Act, shall promulgate the regula-
3 tions required by paragraph (2)(A)(i) of section
4 211(o) of the Clean Air Act (42 U.S.C. 7545(o)), as
5 amended by section 201 of this Act, respecting the
6 requirements under such section 211(o) applicable
7 for calendar years 2020, 2021, and 2022; and

8 (2) not later than January 1, 2021, shall pro-
9 mulgate the regulations required by such paragraph
10 (2)(A)(i) respecting the requirements under such
11 section 211(o) applicable for calendar year 2023 and
12 subsequent calendar years.

13 (c) WAIVER AUTHORITY.—The amendments made by
14 section 202 of this Act to section 211(o)(7) of the Clean
15 Air Act (42 U.S.C. 7545(o)(7)) shall take effect on Janu-
16 ary 1, 2023.

17 (d) DEFINITION.—The amendment made by section
18 201(d) of this Act to subparagraph (J) of section
19 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)),
20 as redesignated by section 201(c)(2) of this Act, shall take
21 effect on the date of enactment of this Act.

22 (e) REPEALS.—Effective January 1, 2033, sub-
23 sections (o), (q), and (v) of section 211 of the Clean Air
24 Act (42 U.S.C. 7545) are repealed.

1 **SEC. 204. STATE ETHANOL LAWS.**

2 (a) IN GENERAL.—No State or political subdivision
3 of a State may prohibit or require any particular blend,
4 concentration, or percentage of ethanol in any automotive
5 fuel.

6 (b) EXCEPTION.—This section does not restrict the
7 authority of a State or political subdivision of a State to
8 continue to enforce any such prohibition or requirement
9 in effect prior to the date of enactment of this Act.

10 **Subtitle B—Ethanol Waivers**

11 **SEC. 211. REID VAPOR PRESSURE.**

12 (a) REID VAPOR PRESSURE LIMITATION.—Section
13 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is
14 amended—

15 (1) in paragraph (4)—

16 (A) in the matter preceding subparagraph
17 (A), by inserting “or more” after “10 percent”;
18 and

19 (B) in subparagraph (C), by striking “ad-
20 ditional alcohol or”; and

21 (2) in paragraph (5)(A), by inserting “or more”
22 after “10 percent”.

23 (b) EXISTING WAIVERS.—Section 211(f)(4) of the
24 Clean Air Act (42 U.S.C. 7545(f)(4)) is amended—

25 (1) by striking “The Administrator, upon” and
26 inserting “(A) The Administrator, upon”; and

1 (2) by adding at the end the following:

2 “(B) A fuel or fuel additive with respect to which a
3 waiver has been granted in accordance with subparagraph
4 (A) prior to January 1, 2017, and that meets all of the
5 conditions of that waiver, other than the waiver’s limits
6 for Reid vapor pressure, may be introduced into commerce
7 if the fuel or fuel additive meets all other applicable Reid
8 vapor pressure requirements.”.

9 **SEC. 212. E20.**

10 Section 211(f)(4) of the Clean Air Act (42 U.S.C.
11 7545(f)(4)), as amended by section 211(b) of this Act, is
12 further amended by adding at the end the following:

13 “(C) The Administrator shall grant a waiver in ac-
14 cordance with subparagraph (A) with respect to a fuel
15 with a concentration of ethanol that is—

16 “(i) not more than 20 percent; and

17 “(ii) more than 15 percent.”.

18 **Subtitle C—Fueling Infrastructure**

19 **SEC. 221. PERFORMANCE STANDARDS FOR NEW E20 INFRA-**
20 **STRUCTURE.**

21 Section 9003 of the Solid Waste Disposal Act (42
22 U.S.C. 6991b) is amended by adding at the end the fol-
23 lowing:

24 “(k) E20 RETAIL DISPENSER SYSTEMS.—

1 “(1) IN GENERAL.—The Administrator shall,
2 not later than 1 year prior to the effective date spec-
3 ified in paragraph (3), issue or revise, as necessary,
4 performance standards for dispenser systems de-
5 scribed in paragraph (2) to require that such dis-
6 penser systems be compatible with automotive fuel
7 with a concentration of up to and including 20 per-
8 cent ethanol by volume.

9 “(2) DISPENSER SYSTEMS.—This subsection
10 applies with respect to dispenser systems that are—

11 “(A) on or after the effective date specified
12 in paragraph (3), brought into use to dispense
13 at retail automotive fuel from an underground
14 storage tank; and

15 “(B) subject to regulation under sections
16 1910.106 and 1926.152 of title 29, Code of
17 Federal Regulations (as in effect on the date of
18 enactment of this subsection).

19 “(3) EFFECTIVE DATE.—Standards issued or
20 revised pursuant to paragraph (1) shall take effect
21 on the later of—

22 “(A) January 1, 2023; and

23 “(B) the date on which the Administrator
24 first grants a waiver pursuant to section
25 211(f)(4)(C) of the Clean Air Act.

1 “(4) DEFINITIONS.—In this subsection:

2 “(A) AUTOMOTIVE FUEL.—The term
3 ‘automotive fuel’ has the meaning given such
4 term in section 201(6) of the Petroleum Mar-
5 keting Practices Act (15 U.S.C. 2821(6)).

6 “(B) COMPATIBLE; DISPENSER SYSTEM.—
7 The terms ‘compatible’ and ‘dispenser system’
8 have the meaning given such terms in section
9 280.12 of title 40, Code of Federal Regulations
10 (as in effect on the date of enactment of this
11 subsection).”.

12 **TITLE III—VEHICLE FUEL** 13 **EFFICIENCY**

14 **SEC. 301. CREDITS FOR EXCEEDING AVERAGE FUEL ECON-** 15 **OMY STANDARDS.**

16 Section 32903 of title 49, United States Code, is
17 amended—

18 (1) in subsection (a)—

19 (A) by redesignating paragraphs (1) and
20 (2) as subparagraphs (A) and (B), respectively,
21 and moving their margins 2 ems to the right;

22 (B) in the matter preceding subparagraph
23 (A), as redesignated, by striking “When” and
24 inserting the following:

25 “(1) IN GENERAL.—When”;

1 (C) in paragraph (1)(B), as redesignated,
2 by striking “paragraph (1)” and inserting “sub-
3 paragraph (A),”; and

4 (D) by adding at the end the following:

5 “(2) MODEL YEARS 2016 THROUGH 2021.—Not-
6 withstanding paragraph (1)(B), beginning with
7 model year 2016 and ending with model year 2021,
8 a manufacturer may apply any credits earned after
9 model year 2009 pursuant to paragraph (1), which
10 have not been applied pursuant to paragraph (1)(A),
11 to any model year beginning after the model year for
12 which the credits are earned.”;

13 (2) in subsection (b)(2)(B), by striking “sub-
14 section (a)(1) of this section” and inserting “sub-
15 section (a)(1)(A)”; and

16 (3) in subsection (g)—

17 (A) in paragraph (3)—

18 (i) in subparagraph (A), by striking
19 “2011” and inserting “2010”;

20 (ii) in subparagraph (B), by striking
21 “2017, 1.5 miles per gallon; and” and in-
22 serting “2016, 1.5 miles per gallon;”; and

23 (iii) by striking subparagraph (C) and
24 inserting the following:

1 “(C) for model years 2017 and 2018, 2.0
2 miles per gallon;

3 “(D) for model years 2019 through 2021,
4 4.0 miles per gallon; and

5 “(E) for model year 2022 and subsequent
6 model years, 6.0 miles per gallon.”; and

7 (B) in paragraph (5), by striking “2010”
8 and inserting “2009”.

9 **SEC. 302. CALCULATION OF AVERAGE FUEL ECONOMY.**

10 Section 32904(a) of title 49, United States Code, is
11 amended by adding at the end the following:

12 “(3) For model years 2012 through 2025, if re-
13 quested by a manufacturer, the average fuel economy cal-
14 culated by the Administrator for the manufacturer’s pas-
15 senger and nonpassenger automobiles shall include off-
16 cycle technology fuel economy credits equivalent to the
17 credits calculated by the Administrator for the off-cycle
18 technology under the Administrator’s vehicle emissions
19 standards for the same or closest model year, provided
20 that the technology has a direct impact upon improving
21 fuel economy performance.”.

22 **SEC. 303. RULE OF CONSTRUCTION.**

23 Nothing in this title or the amendments made by this
24 title may be construed to direct or grant new authority
25 to the Secretary of Transportation to modify a maximum

1 feasible average fuel economy standard established under
2 section 32902 of title 49, United States Code. The Sec-
3 retary's authority to establish and amend a maximum fea-
4 sible average fuel economy standard as provided in such
5 section is unaffected by this title and the amendments
6 made by this title.

