To amend the Clean Air Act to promote the use of alcohol as a motor fuel and as an additive to motor vehicle fuels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

March 28 (legislative day, February 22), 1979

Mr. PRESSLER introduced the following bill, which was read twice and referred to the Committee on Energy and Natural Resources:

A BILL

To amend the Clean Air Act to promote the use of alcohol as a motor fuel and as an additive to motor vehicle fuels, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Clean Air Act Amendments of 1979".

FINDINGS

Sec. 2. The Congress finds that—

(1) the United States is currently importing large quantities of crude oil;
(2) A substantial portion of this crude oil is needed for the production of gasoline sold in interstate commerce; and

(3) Renewable resources in the United States can provide a sufficient source of alcohol suitable for blending with gasoline to decrease the need for imported oil.

TITLE I—CLEAN AIR ACT AMENDMENTS

RETAIL SALES OF UNLEADED GASOLINE

SEC. 101. (a) Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding the following new subsection at the end thereof:

"(h)(1) Any regulation promulgated by the Administrator under this section which requires any person to offer unleaded gasoline for sale at any gasoline retail outlet shall be amended by the Administrator to require such person to offer for sale at such outlet a blend of unleaded gasoline and alcohol which contains not less than 10 percent alcohol in lieu of the present requirement that unleaded gasoline be offered for sale. The requirement contained in the preceding sentence shall apply to a person only if the Administrator and the Secretary of Energy jointly determine that supplies of such a blend are reasonably available to such person. The requirement contained in this subsection may be waived by the Administrator with respect to any filling station for any period specified by the Administrator if the Administrator determines that—

"(A) compliance with the requirements of this subsection would result in severe economic hardship; or

"(B) additional time is required to prepare existing storage tanks at such station for alcohol gasoline blends.

"(2) For purposes of this subsection, the terms 'unleaded gasoline' and 'retail outlet' shall have the meanings provided under regulations promulgated by the Administrator.".

(b) The amendment made by subsection (a) shall take effect ninety days after the date of the enactment of this Act.

EFFECT ON AIR QUALITY OF CERTAIN PROHIBITIONS

SEC. 102. (a) Section 211(c)(2)(C) of the Clean Air Act is amended by adding the following at the end thereof: "No prohibition may be imposed by the Administrator under paragraph (1)(A) with respect to the use of alcohol as a fuel or fuel additive unless the Administrator determines that the imposition of such prohibition will, taken as whole, result in better air quality than would be the case if no such prohibition were imposed.".

(b) The amendment made by subsection (a) shall take effect ninety days after the date of the enactment of this Act and shall apply with respect to prohibitions in effect under regulations under section 211(c)(1) of the Clean Air Act.
which were promulgated before, on, or after the date of the
enactment of this Act.

COOPERATIVE EFFORTS
SEC. 103. The Secretary of Energy, the Administrator
of the Environmental Protection Agency and the Secretary
of Agriculture shall take such cooperative actions as may be
appropriate to facilitate the expanded production and distri-
bution of alcohol for use as a motor vehicle fuel and fuel
additives.

TITLE II—GASOHOL MOTOR FUEL
DEFINITIONS
SEC. 201. As used in this title, the term—
(1) "alcohol" means methanol, ethanol, or any
other alcohol which is produced from renewable re-
sources and which is suitable for use by itself or in
combination with other fuels as a motor fuel;
(2) "alcohol-blended fuel" means any fuel consist-
ing of a mixture of gasoline and alcohol motor fuel;
(3) "alcohol motor fuel" means alcohol produced
for use as a motor fuel;
(4) "commerce" means any trade, traffic, trans-
portation, exchange, or other commerce—
(A) between any State and any place outside
of such State; or
(B) which affects any trade, traffic, transpor-
tation, exchange, or other commerce described in
subparagraph (A).
(5) "motor fuel" means any substance suitable as
a fuel for self-propelled vehicles designed primarily for
use on public streets, roads, and highways;
(6) "refiner" means any person engaged in the re-
fining of crude oil to produce motor fuel, including any
affiliate of such person, or any importer of gasoline for
use as a motor fuel;
(7) "Secretary" means the Secretary of Energy;
(8) "United States" means each State of the sev-
eral States and the District of Columbia;
(9) "ultimate purchaser" means, with respect to
any item, the first person who purchases that item for
purposes other than resale;
(10) "renewable resource" means any substance
which is a source of energy, and which is available in
an inexhaustible supply in the foreseeable future.

PROGRAM
SEC. 202. The Secretary shall establish pursuant to this
title a program to promote the use of alcohol-blended fuels in
the United States. The purpose of the program shall be to
replace gasoline used as a motor fuel with an alcohol-blended
fuel containing the maximum percentage of alcohol motor
fuel as is economically and technically feasible for use as a motor fuel.

STUDY

SEC. 203. (a) The Secretary, in consultation with the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and other appropriate agencies, shall conduct a study to determine—

(1) the most suitable raw materials, other than petroleum or natural gas, for the production of alcohol motor fuel; and

(2) the nature of the alcohol motor fuel distribution systems and the various production processes, using feedstock other than petroleum and natural gas; that will be necessary for the rapid development of an alcohol motor fuel industry. Such study shall identify ways to encourage the development of a reliable alcohol motor fuel industry and shall identify the technical, economic, and institutional barriers to such development, and shall include an estimation of the production capacity of alcohol motor fuel needed to implement the provisions of this title.

(b) The Secretary shall report to the Congress not later than six months after the date of enactment of this title on the results of the study described in subsection (a), together with such legislative recommendations as may be appropriate to further the purposes of this title.

PRODUCTION GOALS

SEC. 204. The Secretary, by rule, within six months after the completion of the study in section 203, shall establish production goals for the production of alcohol motor fuel in the United States in each of the calendar years 1982 through 1991. In setting such goals, the Secretary shall take into account the availability of reliable sources of alcohol produced from renewable resources. The production goal for alcohol motor fuel for calendar year 1982 shall be not less than 1 percent by volume of the projected consumption of gasoline used as a motor fuel in the United States for that year. The production goal for alcohol motor fuel for calendar year 1986 shall be not less than 5 percent by volume of the projected consumption of gasoline used as a motor fuel in the United States for that year. The production goal for alcohol motor fuel for calendar year 1991 shall be not less than 10 percent by volume of the projected consumption of gasoline used as a motor fuel in the United States for that year.

ALCOHOL-BLENDED FUEL REQUIREMENTS

SEC. 205. (a) The total quantity of gasoline sold annually in commerce in the United States by any refiner for use as a motor fuel shall contain, on the average, not less than the percentage alcohol motor fuel by volume set forth for the calendar years shown in the following table:
Calendar year: Percentage alcohol motor fuel by volume:
1982..................................................... 1 percent.
1983..................................................... Determined by the Secretary under subsection (b) of this section.
1984 .................................................... .
1985 .................................................... .
1986 .................................................... .
1987 .................................................... .
1988 .................................................... .
1989 .................................................... .
1990 .................................................... .
1991 .................................................... .
1992 .................................................... .
(b) Not later than July 1, 1981, the Secretary shall prescribe, by rule, the percentage alcohol motor fuel by volume required to be contained, on the average, in the total quantity of gasoline sold annually in commerce in the United States in calendar years 1983 through 1985 and 1987 through 1990 by any refiner for use as a motor fuel. Such percentage shall apply to each refiner, and shall be set for each such calendar year at a level which the Secretary determines (A) is technically and economically feasible, and (B) will result in steady progress toward meeting the percentage alcohol motor fuel by volume required pursuant to this section for calendar year 1991.
(c) Each refiner shall report annually to the Secretary the percentage alcohol motor fuel by volume contained on the average in the total quantity of gasoline for use as a motor fuel that refiner sold during the preceding calendar year.

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2 (b) Not later than July 1, 1981, the Secretary shall pre-
3 scribe, by rule, the percentage alcohol motor fuel by volume
4 required to be contained, on the average, in the total quantity
5 of gasoline sold annually in commerce in the United States in
6 by any refiner for use as a motor fuel. Such percentage shall
7 apply to each refiner, and shall be set for each such calendar
8 year at a level which the Secretary determines (A) is techni-
9 cally and economically feasible, and (B) will result in steady
10 progress toward meeting the percentage alcohol motor fuel
11 by volume required pursuant to this section for calendar year
13 (c) Each refiner shall report annually to the Secretary
14 the percentage alcohol motor fuel by volume contained on the
15 average in the total quantity of gasoline for use as a motor
16 fuel that refiner sold during the preceding calendar year.

ENFORCEMENT BY THE SECRETARY

SEC. 206. (a) Any person who violates any requirement
3 of section 205(a) is subject to a civil penalty of not more than
4 $1 per gallon for each gallon of fuel sold that is not in com-
5 pliance with section 205(a). Such penalties shall be assessed
6 by the Secretary.

(b)(1) Before issuing an order assessing a civil penalty
8 against any person under this section, the Secretary shall
9 provide to such person notice of the proposed penalty. Such
10 notice shall inform such person of the opportunity to elect
11 within thirty days after the date of such notice to have the
12 procedures of paragraph (3) (in lieu of those of paragraph (2))
13 apply with respect to such assessment.

(2)(A) Unless an election is made within thirty calendar
15 days after receipt of notice under paragraph (1) to have para-
16 graph (3) apply with respect to such penalty, the Secretary
17 shall assess the penalty, or order, after a determination of
18 violation has been made on the record after an opportunity
19 for an agency hearing pursuant to section 554 of title 5,
20 United States Code, before a hearing examiner appointed
21 under section 3105 of such title. Such assessment order shall
22 include the hearing examiner’s findings and the basis for such
23 assessment.

(B) Any person against whom a penalty is assessed
25 under this paragraph may, within sixty calendar days after

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1. The date of the order of the Secretary assessing such penalty, under paragraph (2) or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3) the Secretary shall recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or final judgment shall not be subject to review.

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**SEC. 207. (a)** Any person constructing a facility to distill alcohol for motor fuel use shall use fuel sources which are renewable. (b) The Secretary shall, 6 months after enactment of this Act, promulgate, by rule, procedures for certifying that any facility built for alcohol distillation pursuant to this title comply with the following priorities of fuel use:

1. First priority for fuel sources to operate such distillation facilities shall be given to renewable energy resources.

2. Last priority for fuel sources shall be given to petroleum, petroleum derivatives and natural gas.

(c) The Secretary may by waiver authorize the use of fuel sources described in subsection (b)(2) upon finding that it would not be economically or technically feasible to comply with the requirements of subsections (a) and (b), above.
PROCEDURES FOR RULEMAKING

SEC. 208. Any rulemaking by the Secretary pursuant to this Act shall be, unless otherwise provided in this Act, in accordance with section 501 of the Department of Energy Organization Act of 1977.

AUTHORIZATION OF APPROPRIATIONS

SEC. 209. There is authorized to be appropriated to carry out section 203 and section 204 not to exceed $1,000,000 for fiscal year 1980.

TITLE III—ALCOHOL PRODUCTION INCENTIVES

AMORTIZATION OF ALCOHOL PRODUCING FACILITIES

SEC. 301. (a) Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 193. AMORTIZATION OF QUALIFIED ALCOHOL-PRODUCING FACILITIES. (a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of any qualified alcohol-producing facility (as defined in subsection (b)) based on a period of 60 months.

(b) QUALIFIED ALCOHOL-PRODUCING FACILITY.—For purposes of this section, the term 'qualified alcohol-producing facility' means any tangible property—

"(1) which is used in producing alcohol (the primary use of which is fuel or other petroleum substitution) from coal or biomass; and

"(2) which is of a character subject to the allowance for depreciation.

Such term does not include a building and its structural components unless the building is exclusively an alcohol-producing facility.

"(c) AMOUNT OF DEDUCTION.—The amortization deduction for any qualified alcohol-producing facility shall be an amount, with respect to each month of the 60-month period within the taxable year, equal to the adjusted basis of the qualified alcohol-producing facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period.

Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any qualified alcohol-producing facility for any month shall be in lieu of the depreciation deduction with respect to such property for such month provided by section 167. The 60-month period shall begin, as to any qualified alcohol-producing facility, at the election of the taxpayer, with the month following the month in which such
property was placed in service or with the succeeding taxable year.

"(d) Special Rules for Adjusted Basis.—"

(1) For purposes of this section, the adjusted basis of any qualified alcohol-producing facility with respect to which an election has been made under subsection (e) shall not be increased for amounts chargeable to capital account for additions for improvements after the amortization period has begun.

(2) The depreciation deduction provided by section 167 shall, notwithstanding subsection (c), be allowed with respect to the portion of the adjusted basis which is not taken into account in applying this section.

(e) Election of Amortization.—The election of the taxpayer to take the amortization deduction, and the election to begin the 60-day period with the month following the month in which the qualified alcohol-producing facility is placed in service or with the taxable year succeeding the taxable year in which such facility is placed in service, shall be made by filing with the Secretary, in such manner, in such form, and within such time as the Secretary may by regulations prescribe, a statement of such elections.

(f) Termination of Election.—

"(1) By the Taxpayer.—A taxpayer which has elected under subsection (e) to take the amortization deduction with respect to any qualified alcohol-producing facility may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such facility.

(2) Constructive Termination.—If at any time during the amortization period any qualified alcohol-producing facility ceases to meet the requirements of subsection (b), the taxpayer shall be deemed to have terminated under paragraph (1) his election under this section. Such termination shall be effective beginning with the month in which such cessation occurs.

(g) Life Tenant and Remainderman.—In the case of any qualified alcohol-producing facility held by one person for life with remainder to another person, the deduc-
tion under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(b) APPLICATION OF SECTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amortization deduction provided by this section shall apply to property placed in service after the date of the enactment of the Clean Air Act Amendments of 1979 and before January 1, 1984.

"(2) TRANSITIONAL RULES.—

"(A) In the case of property the construction, reconstruction, or erection of which is begun by the taxpayer on or before the date of the enactment of the Clean Air Act Amendments of 1979, the amortization deduction provided by this section shall only apply to that portion of the basis which is attributable to construction, reconstruction, or erection after such date.

"(B) In the case of property which is constructed, reconstructed, or erected by the taxpayer or for the taxpayer pursuant to a contract which is binding on the taxpayer on January 1, 1984, and at all times thereafter, and which is placed in service on or after January 1, 1984, the amortization deduction provided by this section shall apply to that portion of the basis which is attributable to construction, reconstruction, or erection before January 1, 1984.

"(i) CROSS REFERENCE.—

"For treatment of certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245.".

(b)(1) The second sentence of section 46(c)(2) of such Code (defining applicable percentage for purposes of determining qualified investment) is amended by inserting after the following: "(or, if the taxpayer has elected an amortization deduction under section 193 with respect to the property, which would have been used)".

(2) Section 642(£) of such Code (relating to amortization for estates and trusts) is amended by striking out "and 191" and substituting "191, and 193".

(3) Section 1082(a)(2)(B) of such Code (relating to basis in certain exchanges) is amended by striking out "or 191" and substituting "191, or 193".

(4) Section 1245(a) of such Code (relating to gain from dispositions of certain depreciable property) is amended—

(A) by striking out "or" each place it appears in paragraph (2) and substituting "or 193", and

(B) by striking out "or 190" in paragraph (3)(D) and substituting "190, or 193".
Paragraph (3) of section 1250(b) of such Code (relating to depreciation adjustments) is amended by striking out "or 190" and substituting "190, or 193".

The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following:

"Sec. 193. Amortization of qualified alcohol-producing facilities."

The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.