

96TH CONGRESS
1ST SESSION

S. 819

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

1 which were promulgated before, on, or after the date of the
2 enactment of this Act.

3 COOPERATIVE EFFORTS

4 SEC. 103. The Secretary of Energy, the Administrator
5 of the Environmental Protection Agency and the Secretary
6 of Agriculture shall take such cooperative actions as may be
7 appropriate to facilitate the expanded production and distri-
8 bution of alcohol for use as a motor vehicle fuel and fuel
9 additive.

10 TITLE II—GASOHOL MOTOR FUEL

11 DEFINITIONS

12 SEC. 201. As used in this title, the term—

13 (1) "alcohol" means methanol, ethanol, or any
14 other alcohol which is produced from renewable re-
15 sources and which is suitable for use by itself or in
16 combination with other fuels as a motor fuel;

17 (2) "alcohol-blended fuel" means any fuel consist-
18 ing of a mixture of gasoline and alcohol motor fuel;

19 (3) "alcohol motor fuel" means alcohol produced
20 for use as a motor fuel;

21 (4) "commerce" means any trade, traffic, trans-
22 portation, exchange, or other commerce—

23 (A) between any State and any place outside
24 of such State; or

1 (B) which affects any trade, traffic, transpor-
2 tation, exchange, or other commerce described in
3 subparagraph (A).

4 (5) "motor fuel" means any substance suitable as
5 a fuel for self-propelled vehicles designed primarily for
6 use on public streets, roads, and highways;

7 (6) "refiner" means any person engaged in the re-
8 fining of crude oil to produce motor fuel, including any
9 affiliate of such person, or any importer of gasoline for
10 use as a motor fuel;

11 (7) "Secretary" means the Secretary of Energy;

12 (8) "United States" means each State of the sev-
13 eral States and the District of Columbia;

14 (9) "ultimate purchaser" means, with respect to
15 any item, the first person who purchases that item for
16 purposes other than resale;

17 (10) "renewable resource" means any substance
18 which is a source of energy, and which is available in
19 an inexhaustible supply in the foreseeable future.

20 PROGRAM

21 SEC. 202. The Secretary shall establish pursuant to this
22 title a program to promote the use of alcohol-blended fuels in
23 the United States. The purpose of the program shall be to
24 replace gasoline used as a motor fuel with an alcohol-blended
25 fuel containing the maximum percentage of alcohol motor

1 fuel as is economically and technically feasible for use as a
2 motor fuel.

3 STUDY

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

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

11 (2) the nature of the alcohol motor fuel distribu-
12 tion systems and the various production processes,
13 using feedstock other than petroleum and natural gas;
14 that will be necessary for the rapid development of an alcohol
15 motor fuel industry. Such study shall identify ways to encour-
16 age the development of a reliable alcohol motor fuel industry
17 and shall identify the technical, economic, and institutional
18 barriers to such development, and shall include an estimation
19 of the production capacity of alcohol motor fuel needed to
20 implement the provisions of this title.

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

1 PRODUCTION GOALS

2 SEC. 204. The Secretary, by rule, within six months
3 after the completion of the study in section 203, shall estab-
4 lish production goals for the production of alcohol motor fuel
5 in the United States in each of the calendar years 1982
6 through 1991. In setting such goals, the Secretary shall take
7 into account the availability of reliable sources of alcohol pro-
8 duced from renewable resources. The production goal for al-
9 cehol motor fuel for calendar year 1982 shall be not less than
10 1 percent by volume of the projected consumption of gasoline
11 used as a motor fuel in the United States for that year. The
12 production goal for alcohol motor fuel for calendar year 1986
13 shall be not less than 5 percent by volume of the projected
14 consumption of gasoline used as a motor fuel in the United
15 States for that year. The production goal for alcohol motor
16 fuel for calendar year 1991 shall be not less than 10 percent
17 by volume of the projected consumption of gasoline used as a
18 motor fuel in the United States for that year.

19 ALCOHOL-BLENDED FUEL REQUIREMENTS

20 SEC. 205. (a) The total quantity of gasoline sold annual-
21 ly in commerce in the United States by any refiner for use as
22 a motor fuel shall contain, on the average, not less than the
23 percentage alcohol motor fuel by volume set forth for the
24 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..... | Determined by the Secretary under subsection (b) of this section. |
| 1985..... | Determined by the Secretary under subsection (b) of this section. |
| 1986..... | 5 percent. |
| 1987..... | Determined by the Secretary under subsection (b) of this section. |
| 1988..... | Determined by the Secretary under subsection (b) of this section. |
| 1989..... | Determined by the Secretary under subsection (b) of this section. |
| 1990..... | Determined by the Secretary under subsection (b) of this section. |
| 1991..... | 10 percent. |

(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.

ENFORCEMENT BY THE SECRETARY

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

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

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

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

1 the date of the order of the Secretary assessing such penalty,
 2 institute an action in the United States court of appeals for
 3 the appropriate judicial circuit for judicial review of such
 4 order in accordance with chapter 7 of title 5, United States
 5 Code. The court shall have jurisdiction to enter a judgment
 6 affirming, modifying or setting aside in whole or in part, the
 7 order of the Secretary, or the court may remand the proceed-
 8 ing to the Secretary for such further action as the court may
 9 direct.

10 (3)(A) In the case of any civil penalty with respect to
 11 which the procedures of this paragraph have been elected,
 12 the Secretary shall promptly assess such penalty.

13 (B) If the civil penalty has not been paid within sixty
 14 calendar days after the assessment order has been made
 15 under subparagraph (A), the Secretary shall institute an
 16 action in the appropriate district court of the United States
 17 for an order affirming the assessment of the civil penalty. The
 18 court shall have authority to review de novo the law and the
 19 facts involved, and shall have jurisdiction to enter a judgment
 20 enforcing, modifying, and enforcing as so modified, or setting
 21 aside in whole or in part such assessment.

22 (C) Any election to have this paragraph apply may not
 23 be revoked except with the consent of the Secretary.

24 (4) If any person fails to pay an assessment of a civil
 25 penalty after it has become a final and unappealable order

1 under paragraph (2) or after the appropriate district court has
 2 entered final judgment in favor of the Secretary under para-
 3 graph (3) the Secretary shall recover the amount of such pen-
 4 alty in any appropriate district court of the United States. In
 5 such action, the validity and appropriateness of such final
 6 assessment order or final judgment shall not be subject to
 7 review.

8 ALCOHOL DISTILLATION FUEL REQUIREMENTS

9 SEC. 207. (a) Any person constructing a facility to dis-
 10 till alcohol for motor fuel use shall use fuel sources which are
 11 renewable.

12 (b) The Secretary shall, 6 months after enactment of
 13 this Act, promulgate, by rule, procedures for certifying that
 14 any facility built for alcohol distillation pursuant to this title
 15 comply with the following priorities of fuel use:

16 (1) First priority for fuel sources to operate such
 17 distillation facilities shall be given to renewable energy
 18 resources.

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

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

1 PROCEDURES FOR RULEMAKING

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

6 AUTHORIZATION OF APPROPRIATIONS

7 SEC. 209. There is authorized to be appropriated to
8 carry out section 203 and section 204 not to exceed
9 \$1,000,000 for fiscal year 1980.

10 TITLE III—ALCOHOL PRODUCTION INCENTIVES

11 AMORTIZATION OF ALCOHOL PRODUCING FACILITIES

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

16 "SEC. 193. AMORTIZATION OF QUALIFIED ALCOHOL-PRODUC-
17 ING FACILITIES.

18 "(a) ALLOWANCE OF DEDUCTION.—Every person, at
19 his election, shall be entitled to a deduction with respect to
20 the amortization of any qualified alcohol-producing facility (as
21 defined in subsection (b)) based on a period of 60 months.

22 "(b) QUALIFIED ALCOHOL-PRODUCING FACILITY.—
23 For purposes of this section, the term 'qualified alcohol-pro-
24 ducing facility' means any tangible property—

1 "(1) which is used in producing alcohol (the pri-
2 mary use of which is fuel or other petroleum substitu-
3 tion) from coal or biomass; and

4 "(2) which is of a character subject to the allow-
5 ance for depreciation.

6 Such term does not include a building and its structural com-
7 ponents unless the building is exclusively an alcohol-produc-
8 ing facility.

9 "(c) AMOUNT OF DEDUCTION.—The amortization de-
10 duction for any qualified alcohol-producing facility shall be an
11 amount, with respect to each month of the 60-month period
12 within the taxable year, equal to the adjusted basis of the
13 qualified alcohol-producing facility at the end of such month
14 divided by the number of months (including the month for
15 which the deduction is computed) remaining in the period.
16 Such adjusted basis at the end of the month shall be
17 computed without regard to the amortization deduction for
18 such month. The amortization deduction provided by this sec-
19 tion with respect to any qualified alcohol-producing facility
20 for any month shall be in lieu of the depreciation deduction
21 with respect to such property for such month provided by
22 section 167. The 60-month period shall begin, as to any
23 qualified alcohol-producing facility, at the election of the tax-
24 payer, with the month following the month in which such

25 person for life with remainder to another person, the deduc-

1 property was placed in service or with the succeeding taxable
2 year.

3 **“(d) SPECIAL RULES FOR ADJUSTED BASIS.—**

4 **“(1)** For purposes of this section, the adjusted
5 basis of any qualified alcohol-producing facility with re-
6 spect to which an election has been made under sub-
7 section (e) shall not be increased for amounts charge-
8 able to capital account for additions for improvements
9 after the amortization period has begun.

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

15 **“(e) ELECTION OF AMORTIZATION.—**The election of
16 the taxpayer to take the amortization deduction, and the
17 election to begin the 60-day period with the month following
18 the month in which the qualified alcohol-producing facility is
19 placed in service or with the taxable year succeeding the
20 taxable year in which such facility is placed in service, shall
21 be made by filing with the Secretary, in such manner, in such
22 form, and within such time as the Secretary may by regula-
23 tions prescribe, a statement of such elections.

24 **“(f) TERMINATION OF ELECTION.—**

1 **“(1) BY THE TAXPAYER.—**A taxpayer which has
2 elected under subsection (e) to take the amortization
3 deduction with respect to any qualified alcohol-produc-
4 ing facility may, at any time after making such elec-
5 tion, discontinue the amortization deduction with re-
6 spect to the remainder of the amortization period, such
7 discontinuance to begin as of the beginning of any
8 month specified by the taxpayer in a notice in writing
9 filed with the Secretary before the beginning of such
10 month. The depreciation deduction provided under sec-
11 tion 167 shall be allowed, beginning with the first
12 month as to which the amortization deduction does not
13 apply, and the taxpayer shall not be entitled to any
14 further amortization deduction under this section with
15 respect to such facility.

16 **“(2) CONSTRUCTIVE TERMINATION.—**If at any
17 time during the amortization period any qualified alco-
18 hol-producing facility ceases to meet the requirements
19 of subsection (b), the taxpayer shall be deemed to have
20 terminated under paragraph (1) his election under this
21 section. Such termination shall be effective beginning
22 with the month in which such cessation occurs.

23 **“(g) LIFE TENANT AND REMAINDERMAN.—**In the
24 case of any qualified alcohol-producing facility held by one
25 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.

“(h) 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 useful life used” 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(f) 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”.

1 (5) Paragraph (3) of section 1250(b) of such Code (re-
2 lating to depreciation adjustments) is amended by striking out
3 "or 190" and substituting "190, or 193".

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

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

7 (c) The amendments made by this section shall apply to
8 taxable years ending after the date of the enactment of this
9 Act.



1 (5) Paragraph (3) of section 1250(b) of such Code (re-
2 lating to depreciation adjustments) is amended by striking out
3 "or 190" and substituting "190, or 193".

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

"Sec. 193. Amortization of qualified leased personal property."

7 (c) The amendments made by this section shall apply to
8 taxable years ending after the date of the enactment of this
9 Act.