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S. 835

To require automobile manufacturers to ensure that not less than 80 percent of the automobiles manufactured or sold in the United States by each such manufacturer to operate on fuel mixtures containing 85 percent ethanol, 85 percent methanol, or biodiesel.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 2009

Mr. BROWNBACK (for himself, Ms. CANTWELL, Mr. LIEBERMAN, Ms. COLLINS, Mr. THUNE, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require automobile manufacturers to ensure that not less than 80 percent of the automobiles manufactured or sold in the United States by each such manufacturer to operate on fuel mixtures containing 85 percent ethanol, 85 percent methanol, or biodiesel.

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 “Open Fuel Standard
5 Act of 2009” or the “OFS Act”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) The status of oil as a strategic commodity,
5 which derives from its domination of the transpor-
6 tation sector, presents a clear and present danger to
7 the United States;

8 (2) in a prior era, when salt was a strategic
9 commodity, salt mines conferred national power and
10 wars were fought over the control of such mines;

11 (3) technology, in the form of electricity and re-
12 frigeration, decisively ended salt's monopoly of meat
13 preservation and greatly reduced its strategic impor-
14 tance;

15 (4) fuel competition and consumer choice would
16 similarly serve to end oil's monopoly in the transpor-
17 tation sector and strip oil of its strategic status;

18 (5) the current closed fuel market has allowed
19 a cartel of petroleum exporting countries to inflate
20 fuel prices, effectively imposing a harmful tax on the
21 economy of the United States;

22 (6) much of the inflated petroleum revenues the
23 oil cartel earns at the expense of the people of the
24 United States are used for purposes antithetical to
25 the interests of the United States and its allies;

1 (7) alcohol fuels, including ethanol and meth-
2 anol, could potentially provide significant supplies of
3 additional fuels that could be produced in the United
4 States and in many other countries in the Western
5 Hemisphere that are friendly to the United States;

6 (8) alcohol fuels can only play a major role in
7 securing the energy independence of the United
8 States if a substantial portion of vehicles in the
9 United States are capable of operating on such fuels;

10 (9) it is not in the best interest of United
11 States consumers or the United States Government
12 to be constrained to depend solely upon petroleum
13 resources for vehicle fuels if alcohol fuels are poten-
14 tially available;

15 (10) existing technology, in the form of flexible
16 fuel vehicles, allows internal combustion engine cars
17 and trucks to be produced at little or no additional
18 cost, which are capable of operating on conventional
19 gasoline, alcohol fuels, or any combination of such
20 fuels, as availability or cost advantage dictates, pro-
21 viding a platform on which fuels can compete;

22 (11) the necessary distribution system for such
23 alcohol fuels will not be developed in the United
24 States until a substantial fraction of the vehicles in

1 the United States are capable of operating on such
2 fuels;

3 (12) the establishment of such a vehicle fleet
4 and distribution system would provide a large mar-
5 ket that would mobilize private resources to substan-
6 tially advance the technology and expand the pro-
7 duction of alcohol fuels in the United States and
8 abroad;

9 (13) the United States has an urgent national
10 security interest to develop alcohol fuels technology,
11 production, and distribution systems as rapidly as
12 possible;

13 (14) new cars sold in the United States that
14 are equipped with an internal combustion engine
15 should allow for fuel competition by being flexible
16 fuel vehicles, and new diesel cars should be capable
17 of operating on biodiesel; and

18 (15) such an open fuel standard would help to
19 protect the United States economy from high and
20 volatile oil prices and from the threats caused by
21 global instability, terrorism, and natural disaster.

22 **SEC. 3. OPEN FUEL STANDARD FOR TRANSPORTATION.**

23 Chapter 329 of title 49, United States Code, is
24 amended by adding at the end the following:

1 **“SEC. 32920. OPEN FUEL STANDARD FOR TRANSPOR-**
 2 **TATION.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) E85.—The term ‘E85’ means a fuel mix-
 5 ture containing 85 percent ethanol and 15 percent
 6 gasoline by volume.

7 “(2) FLEXIBLE FUEL AUTOMOBILE.—The term
 8 ‘flexible fuel automobile’ means an automobile that
 9 has been warranted by its manufacturer to operate
 10 on gasoline, E85, and M85.

11 “(3) FUEL CHOICE-ENABLING AUTOMOBILE.—
 12 The term ‘fuel choice-enabling automobile’ means—

13 “(A) a flexible fuel automobile; or

14 “(B) an automobile that has been war-
 15 ranted by its manufacturer to operate on bio-
 16 diesel.

17 “(4) LIGHT-DUTY AUTOMOBILE.—The term
 18 ‘light-duty automobile’ means—

19 “(A) a passenger automobile; or

20 “(B) a non-passenger automobile.

21 “(5) LIGHT-DUTY AUTOMOBILE MANUFAC-
 22 TURER’S ANNUAL COVERED INVENTORY.—The term
 23 ‘light-duty automobile manufacturer’s annual cov-
 24 ered inventory’ means the number of light-duty
 25 automobiles powered by an internal combustion en-
 26 gine that a manufacturer, during a given calendar

1 year, manufactures in the United States or imports
 2 from outside of the United States for sale in the
 3 United States.

4 “(6) M85.—The term ‘M85’ means a fuel mix-
 5 ture containing 85 percent methanol and 15 percent
 6 gasoline by volume.

7 “(b) OPEN FUEL STANDARD FOR TRANSPOR-
 8 TATION.—

9 “(1) IN GENERAL.—Except as provided in para-
 10 graph (2), each light-duty automobile manufactur-
 11 er’s annual covered inventory shall be comprised
 12 of—

13 “(A) not less than 50 percent fuel choice-
 14 enabling automobiles in 2012, 2013, and 2014;
 15 and

16 “(B) not less than 80 percent fuel choice-
 17 enabling automobiles in 2015, and in each sub-
 18 sequent year.

19 “(2) TEMPORARY EXEMPTION FROM REQUIRE-
 20 MENTS.—

21 “(A) APPLICATION.—A manufacturer may
 22 request an exemption from the requirement de-
 23 scribed in paragraph (1) by submitting an ap-
 24 plication to the Secretary, at such time, in such
 25 manner, and containing such information as the

1 Secretary may require by regulation. Each such
2 application shall specify the models, lines, and
3 types of automobiles affected.

4 “(B) EVALUATION.—After evaluating an
5 application received from a manufacturer, the
6 Secretary may at any time, under such terms
7 and conditions, and to such extent as the Sec-
8 retary considers appropriate, temporarily ex-
9 empt, or renew the exemption of, a light-duty
10 automobile from the requirement described in
11 paragraph (1) if the Secretary determines that
12 unavoidable events that are not under the con-
13 trol of the manufacturer prevent the manufac-
14 turer of such automobile from meeting its re-
15 quired production volume of fuel choice-ena-
16 bling automobiles, including—

17 “(i) a disruption in the supply of any
18 component required for compliance with
19 the regulations;

20 “(ii) a disruption in the use and in-
21 stallation by the manufacturer of such
22 component; or

23 “(iii) the failure for plug-in hybrid
24 electric automobiles to meet State air qual-

1 ity requirements as a result of the require-
2 ment described in paragraph (1).

3 “(C) CONSOLIDATION.—The Secretary
4 may consolidate applications received from mul-
5 tiple manufactures under subparagraph (A) if
6 they are of a similar nature.

7 “(D) CONDITIONS.—Any exemption grant-
8 ed under subparagraph (B) shall be conditioned
9 upon the manufacturer’s commitment to recall
10 the exempted automobiles for installation of the
11 omitted components within a reasonable time
12 proposed by the manufacturer and approved by
13 the Secretary after such components become
14 available in sufficient quantities to satisfy both
15 anticipated production and recall volume re-
16 quirements.

17 “(E) NOTICE.—The Secretary shall pub-
18 lish in the Federal Register—

19 “(i) notice of each application received
20 from a manufacturer;

21 “(ii) notice of each decision to grant
22 or deny a temporary exemption; and

23 “(iii) the reasons for granting or de-
24 nying such exemptions.

1 “(c) LIMITED LIABILITY PROTECTION FOR RENEW-
2 ABLE FUEL AND ETHANOL MANUFACTURE, USE, OR DIS-
3 TRIBUTION.—

4 “(1) IN GENERAL.—Notwithstanding any other
5 provision of Federal or State law, any fuel con-
6 taining ethanol or a renewable fuel (as defined in
7 section 211(o)(1) of the Clean Air Act) that is used
8 or intended to be used to operate an internal com-
9 bustion engine shall not be deemed to be a defective
10 product or subject to a failure to warn due to such
11 ethanol or renewable fuel content unless such fuel
12 violates a control or prohibition imposed by the Ad-
13 ministrator under section 211 of the Clean Air Act
14 (42 U.S.C. 7545).

15 “(2) SAVINGS PROVISION.—Nothing in this sub-
16 section may be construed to affect the liability of
17 any person other than liability based upon a claim
18 of defective product and failure to warn described in
19 paragraph (1).

20 “(d) RULEMAKING.—Not later than 1 year after the
21 date of the enactment of this section, the Secretary of
22 Transportation shall promulgate regulations to carry out
23 this section.”.

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