

# Calendar No. 630

110TH CONGRESS  
2D SESSION

# S. 357

[Report No. 110-278]

To improve passenger automobile fuel economy and safety, reduce greenhouse gas emissions, reduce dependence on foreign oil, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2007

Mrs. FEINSTEIN (for herself, Ms. SNOWE, Mr. INOUE, Mr. DURBIN, Mr. KERRY, Mrs. BOXER, Mr. NELSON of Florida, Ms. CANTWELL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. MENENDEZ, Ms. COLLINS, Mr. REED, Mr. LEAHY, Mr. SANDERS, Mr. DODD, Mr. AKAKA, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

APRIL 7, 2008

Reported by Mr. INOUE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

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## A BILL

To improve passenger automobile fuel economy and safety, reduce greenhouse gas emissions, reduce dependence on foreign oil, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “~~Ten-in-Ten Fuel Economy Act~~”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for  
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Average fuel economy standards for passenger automobiles and light trucks.
- Sec. 3. Passenger car program reform.
- Sec. 4. Definition of work truck.
- Sec. 5. Definition of light truck.
- Sec. 6. Ensuring safety of passenger automobiles and light trucks.
- Sec. 7. Onboard fuel economy indicators and devices.
- Sec. 8. Secretary of Transportation to certify benefits.
- Sec. 9. Credit trading program.
- Sec. 10. Report to Congress.
- Sec. 11. Labels for fuel economy and greenhouse gas emissions.

6 **SEC. 2. AVERAGE FUEL ECONOMY STANDARDS FOR PAS-**  
7 **SENGER AUTOMOBILES AND LIGHT TRUCKS.**

8 (a) **INCREASED STANDARDS.**—Section 32902 of title  
9 49, United States Code, is amended—

10 (1) in subsection (a)—

11 (A) by striking “**NON-PASSENGER AUTO-**  
12 **MOBILES.—**” and inserting “**PRESCRIPTION OF**  
13 **STANDARDS BY REGULATION.—**”; and

14 (B) by striking “(except passenger auto-  
15 mobiles)” and inserting “(except passenger  
16 automobiles and light trucks)”; and

17 (2) by amending subsection (b) to read as fol-  
18 lows:

19 “(b) **STANDARDS FOR PASSENGER AUTOMOBILES**  
20 **AND LIGHT TRUCKS.—**

1           “(1) IN GENERAL.—The Secretary of Transpor-  
2           tation, after consultation with the Administrator of  
3           the Environmental Protection Agency, shall pre-  
4           scribe average fuel economy standards for passenger  
5           automobiles and light trucks manufactured by a  
6           manufacturer in each model year beginning with  
7           model year 2010 in order to achieve a combined av-  
8           erage fuel economy standard for passenger auto-  
9           mobiles and light trucks for model year 2019 of at  
10          least 35 miles per gallon (or such other number of  
11          miles per gallon as the Secretary may prescribe  
12          under subsection (c)).

13           “(2) ELIMINATION OF SUV LOOPHOLE.—Begin-  
14          ning not later than model year 2013, the regulations  
15          prescribed under this section may not make any dis-  
16          tinction between passenger automobiles and light  
17          trucks.

18           “(3) PROGRESS TOWARD STANDARD RE-  
19          QUIRED.—In prescribing average fuel economy  
20          standards under paragraph (1), the Secretary shall  
21          prescribe appropriate annual fuel economy standard  
22          increases for passenger automobiles and light trucks  
23          that—

1           “(A) increase the applicable average fuel  
2           economy standard ratably beginning with model  
3           year 2010 and ending with model year 2019;

4           “(B) require that each manufacturer  
5           achieve—

6                   “(i) a fuel economy standard for pas-  
7                   senger automobiles manufactured by that  
8                   manufacturer of at least 29.5 miles per  
9                   gallon not later than model year 2010; and

10                   “(ii) a fuel economy standard for light  
11                   trucks manufactured by that manufacturer  
12                   of at least 23.5 miles per gallon not later  
13                   than model year 2010.

14           “(4) FUEL ECONOMY BASELINE FOR PAS-  
15           SENGER AUTOMOBILES.—Notwithstanding the max-  
16           imum feasible average fuel economy level established  
17           by regulations prescribed under subsection (c), the  
18           minimum fleetwide average fuel economy standard  
19           for passenger automobiles manufactured by a manu-  
20           facturer in a model year for that manufacturer’s do-  
21           mestic fleet and foreign fleet, as calculated under  
22           section 32904 as in effect before the date of the en-  
23           actment of the Ten-in-Ten Fuel Economy Act, shall  
24           be the greater of—

25                   “(A) 27.5 miles per gallon; or

1           “(B) 92 percent of the average fuel econ-  
2           omy projected by the Secretary for the com-  
3           bined domestic and foreign fleets manufactured  
4           by all manufacturers in that model year.

5           “(5) DEADLINE FOR REGULATIONS.—The See-  
6           retary shall promulgate the regulations required by  
7           paragraphs (1) and (2) in final form not later than  
8           18 months after the date of the enactment of the  
9           Ten-in-Ten Fuel Economy Act.”.

10 **SEC. 3. PASSENGER CAR PROGRAM REFORM.**

11           Section 32902(e) of title 49, United States Code, is  
12 amended to read as follows:

13           “(e) AMENDING PASSENGER AUTOMOBILE STAND-  
14 ARDS.—Not later than 18 months before the beginning of  
15 each model year, the Secretary of Transportation may pre-  
16 scribe regulations amending a standard prescribed under  
17 subsection (b) for a model year to a level that the See-  
18 retary determines to be the maximum feasible average fuel  
19 economy level for that model year. Section 553 of title 5  
20 applies to a proceeding to amend any standard prescribed  
21 under subsection (b). Any interested person may make an  
22 oral presentation and a transcript shall be taken of that  
23 presentation. The Secretary may prescribe separate stand-  
24 ards for different classes of passenger automobiles.”.

1 **SEC. 4. DEFINITION OF WORK TRUCK.**

2 (a) **DEFINITION OF WORK TRUCK.**—Section  
3 32901(a) of title 49 is amended by adding at the end the  
4 following:

5 “(17) ‘work truck’ means an automobile that  
6 the Secretary determines by regulation—

7 “(A) is rated at between 8,500 and 10,000  
8 pounds gross vehicle weight; and

9 “(B) is not a medium-duty passenger vehi-  
10 cle (as defined in section 86.1803–01 of title  
11 40, Code of Federal Regulations).”.

12 (b) **DEADLINE FOR REGULATIONS.**—The Secretary  
13 of Transportation—

14 (1) shall issue proposed regulations imple-  
15 menting the amendment made by subsection (a) not  
16 later than 1 year after the date of the enactment of  
17 this Act; and

18 (2) shall issue final regulations implementing  
19 the amendment not later than 18 months after the  
20 date of the enactment of this Act.

21 (c) **FUEL ECONOMY STANDARDS FOR WORK**  
22 **TRUCKS.**—The Secretary of Transportation, in consulta-  
23 tion with the Administrator of the Environmental Protec-  
24 tion Agency, shall prescribe standards to achieve the max-  
25 imum feasible fuel economy for work trucks (as defined  
26 in section 32901(a)(17) of title 49, United States Code)

1 manufactured by a manufacturer in each model year be-  
 2 ginning with model year 2013.

3 **SEC. 5. DEFINITION OF LIGHT TRUCK.**

4 (a) DEFINITION OF LIGHT TRUCK.—

5 (1) IN GENERAL.—Section 32901(a) of title 49,  
 6 United States Code, is amended by inserting after  
 7 paragraph (11) the following:

8 “(11) ‘light truck’ means an automobile that  
 9 the Secretary determines by regulation—

10 “(A) is manufactured primarily for trans-  
 11 porting not more than 10 individuals;

12 “(B) is rated at not more than 10,000  
 13 pounds gross vehicle weight;

14 “(C) is not a passenger automobile; and

15 “(D) is not a work truck.”.

16 (2) DEADLINE FOR REGULATIONS.—The Sec-  
 17 retary of Transportation—

18 (A) shall issue proposed regulations imple-  
 19 menting the amendment made by paragraph (1)  
 20 not later than 1 year after the date of the en-  
 21 actment of this Act; and

22 (B) shall issue final regulations imple-  
 23 menting the amendment not later than 18  
 24 months after the date of the enactment of this  
 25 Act.

1           (3) ~~EFFECTIVE DATE.~~—Regulations prescribed  
2           under paragraph (1) shall apply beginning with  
3           model year 2010.

4           (b) ~~APPLICABILITY OF EXISTING STANDARDS.~~—This  
5           section does not affect the application of section 32902  
6           of title 49, United States Code, to passenger automobiles  
7           or non-passenger automobiles manufactured before model  
8           year 2010.

9           (c) ~~AUTHORIZATION OF APPROPRIATIONS.~~—There  
10          are authorized to be appropriated to the Secretary of  
11          Transportation \$25,000,000 for each of fiscal years 2009  
12          through 2021 to carry out the provisions of chapter 329  
13          of title 49, United States Code.

14       **SEC. 6. ENSURING SAFETY OF PASSENGER AUTOMOBILES**  
15                               **AND LIGHT TRUCKS.**

16          (a) ~~IN GENERAL.~~—The Secretary of Transportation  
17          shall exercise such authority under Federal law as the Sec-  
18          retary may have to ensure that—

19               (1) passenger automobiles and light trucks (as  
20               such terms are defined in section 32901 of title 49,  
21               United States Code) are safe;

22               (2) progress is made in improving the overall  
23               safety of passenger automobiles and light trucks;  
24               and



1           (3) progress is made in maximizing United  
2           States employment.

3           (b) **VEHICLE SAFETY.**—Subchapter H of chapter 301  
4 of title 49, United States Code, is amended by adding at  
5 the end the following:

6           **“§ 30129. Vehicle compatibility and aggressivity re-**  
7   **duction standard**

8           “(a) **STANDARDS.**—The Secretary of Transportation  
9 shall issue a motor vehicle safety standard to reduce vehi-  
10 cle incompatibility and aggressivity between passenger ve-  
11 hicles and non-passenger vehicles. The standard shall ad-  
12 dress characteristics necessary to ensure better manage-  
13 ment of crash forces in multiple vehicle frontal and side  
14 impact crashes between different types, sizes, and weights  
15 of vehicles with a gross vehicle weight of 10,000 pounds  
16 or less in order to decrease occupant deaths and injuries.

17           “(b) **CONSUMER INFORMATION.**—The Secretary shall  
18 develop and implement a public information side and fron-  
19 tal compatibility crash test program with vehicle ratings  
20 based on risks to occupants, risks to other motorists, and  
21 combined risks by vehicle make and model.”.

22           (c) **RULEMAKING DEADLINES.**—

23                   (1) **RULEMAKING.**—The Secretary of Transpor-  
24           tation shall issue—

1           (A) a notice of a proposed rulemaking  
2           under section 30129 of title 49, United States  
3           Code, not later than January 1, 2010; and

4           (B) a final rule under such section not  
5           later than December 31, 2011.

6           (2) EFFECTIVE DATE OF REQUIREMENTS.—

7           Any requirement imposed under the final rule issued  
8           under paragraph (1) shall become fully effective not  
9           later than September 1, 2013.

10          (d) CONFORMING AMENDMENT.—The chapter anal-  
11          ysis for chapter 301 is amended by inserting after the item  
12          relating to section 30128 the following:

“30129. Vehicle compatibility and aggressivity reduction standard.”.

13          **SEC. 7. ONBOARD FUEL ECONOMY INDICATORS AND DE-**  
14          **VICES.**

15          (a) IN GENERAL.—Chapter 329 of title 49, United  
16          States Code, is amended by adding at the end the fol-  
17          lowing:

18          “**§ 32920. Fuel economy indicators and devices**

19          “(a) IN GENERAL.—The Secretary of Transpor-  
20          tation, in consultation with the Administrator of the Envi-  
21          ronmental Protection Agency, shall prescribe a fuel econ-  
22          omy standard for passenger automobiles and light trucks  
23          manufactured by a manufacturer in each model year be-  
24          ginning with model year 2014 that requires each such  
25          automobile and light truck to be equipped with—

1           ~~“(1) an onboard electronic instrument that pro-~~  
2           ~~vides real-time and cumulative fuel economy data;~~

3           ~~“(2) an onboard electronic instrument that sig-~~  
4           ~~nals a driver when inadequate tire pressure may be~~  
5           ~~affecting fuel economy; and~~

6           ~~“(3) a device that will allow drivers to place the~~  
7           ~~automobile or light truck in a mode that will auto-~~  
8           ~~matically produce greater fuel economy.~~

9           ~~“(b) EXCEPTION.—Subsection (a) shall not apply to~~  
10           ~~any vehicle that is not subject to an average fuel economy~~  
11           ~~standard under section 32902(b).~~

12           ~~“(c) ENFORCEMENT.—Subchapter IV of chapter 301~~  
13           ~~of this title shall apply to a fuel economy standard pre-~~  
14           ~~scribed under subsection (a) to the same extent and in~~  
15           ~~the same manner as if that standard were a motor vehicle~~  
16           ~~safety standard under chapter 301.”.~~

17           ~~(b) CONFORMING AMENDMENT.—The chapter anal-~~  
18           ~~ysis for chapter 329 of title 49, United States Code, is~~  
19           ~~amended by inserting after the item relating to section~~  
20           ~~32919 the following:~~

~~“32920. Fuel economy indicators and devices.”.~~

21           ~~**SEC. 8. SECRETARY OF TRANSPORTATION TO CERTIFY**~~  
22           ~~**BENEFITS.**~~

23           ~~Beginning with model year 2010, the Secretary of~~  
24           ~~Transportation, in consultation with the Administrator of~~  
25           ~~the Environmental Protection Agency, shall annually de-~~

1 termine and certify to Congress the reduction in United  
2 States consumption of gasoline and petroleum distillates  
3 used for vehicle fuel and the reduction in greenhouse gas  
4 emissions during the most recent year that are properly  
5 attributable to the implementation of the average fuel  
6 economy standards imposed under section ~~32902~~ of title  
7 49, United States Code, as a result of the amendments  
8 made by this Act.

9 **SEC. 9. CREDIT TRADING PROGRAM.**

10 Section ~~32903~~ of title 49, United States Code, is  
11 amended—

12 (1) by striking “passenger” each place it ap-  
13 pears;

14 (2) by striking “section ~~32902(b)–(d)~~ of this  
15 title” each place it appears and inserting “sub-  
16 section (a), (c), or (d) of section ~~32902~~”;

17 (3) in subsection (a)(2), by striking “clause (1)  
18 of this subsection” and inserting “paragraph (1)”;  
19 and

20 (4) by amending subsection (e) to read as fol-  
21 lows:

22 “(e) CREDIT TRADING AMONG MANUFACTURERS.—

23 The Secretary of Transportation may establish, by regula-  
24 tion, a corporate average fuel economy credit trading pro-  
25 gram to allow manufacturers whose automobiles exceed

1 the average fuel economy standards prescribed under sec-  
 2 tion 32902 to earn credits to be sold to manufacturers  
 3 whose automobiles fail to achieve the prescribed stand-  
 4 ards.”.

5 **SEC. 10. REPORT TO CONGRESS.**

6 Not later than December 31, 2014, the Secretary of  
 7 Transportation shall submit to Congress a report on the  
 8 progress made by the automobile manufacturing industry  
 9 towards meeting the 35 miles per gallon average fuel econ-  
 10 omy standard required under section 32902(b)(1) of title  
 11 49, United States Code.

12 **SEC. 11. LABELS FOR FUEL ECONOMY AND GREENHOUSE**  
 13 **GAS EMISSIONS.**

14 Section 32908 of title 49, United States Code, is  
 15 amended—

16 (1) in subsection (a)(1), by striking “of this  
 17 title” and inserting “and a light truck manufactured  
 18 by a manufacturer in a model year after model year  
 19 2010; and”;

20 (2) in subsection (b)—

21 (A) in paragraph (1)—

22 (i) by redesignating subparagraph (F)  
 23 as subparagraph (H); and

24 (ii) by inserting after subparagraph  
 25 (E) the following:

1           “(F) a label (or a logo imprinted on a label re-  
2           quired by this paragraph) that—

3           “(i) reflects an automobile’s performance  
4           on the basis of criteria developed by the Admin-  
5           istrator to reflect the fuel economy and green-  
6           house gas and other emissions consequences of  
7           operating the automobile over its likely useful  
8           life;

9           “(ii) permits consumers to compare per-  
10          formance results under clause (i) among all  
11          passenger automobiles and light duty trucks;  
12          and

13          “(iii) is designed to encourage the manu-  
14          facture and sale of passenger automobiles and  
15          light trucks that meet or exceed applicable fuel  
16          economy standards under section 32902.

17          “(G) a fuelstar under paragraph (5).”; and

18          (B) by adding at the end the following:

19          “(4) GREEN LABEL PROGRAM.—

20           “(A) MARKETING ANALYSIS.—Not later than 2  
21          years after the date of the enactment of the Ten-in-  
22          Ten Fuel Economy Act, the Administrator shall  
23          complete a study of social marketing strategies with  
24          the goal of maximizing consumer understanding of

1 point-of-sale labels or logos described in paragraph  
2 (1)(F).

3 “(B) ELIGIBILITY.—Not later than 3 years  
4 after the date described in subparagraph (A), the  
5 Administrator shall issue requirements for the label  
6 or logo required under paragraph (1)(F) to ensure  
7 that a passenger automobile or light truck is not eli-  
8 gible for the label or logo unless it—

9 “(i) meets or exceeds the applicable fuel  
10 economy standard; or

11 “(ii) will have the lowest greenhouse gas  
12 emissions over the useful life of the vehicle of  
13 all vehicles in the vehicle class to which it be-  
14 longs in that model year.

15 “(C) CRITERIA.—In developing criteria for the  
16 label or logo, the Administrator shall also consider,  
17 among others as appropriate, the following factors:

18 “(i) The recyclability of the automobile.

19 “(ii) Any other pollutants or harmful by-  
20 products related to the automobile, which may  
21 include those generated during manufacture of  
22 the automobile, those issued during use of the  
23 automobile, or those generated after the auto-  
24 mobile ceases to be operated.

25 “(5) FUELSTAR PROGRAM.—

1           “(A) IN GENERAL.—The Secretary shall estab-  
 2           lish a program, to be known as the ‘Fuelstar Pro-  
 3           gram’, under which stars shall be imprinted on or  
 4           attached to the label required by paragraph (1).

5           “(B) GREEN STARS.—Under the Fuelstar Pro-  
 6           gram, a manufacturer may include on the label  
 7           maintained on an automobile under paragraph (1)—

8                   “(i) 1 green star for any automobile that  
 9                   meets the average fuel economy standard for  
 10                  the model year under section 32902; and

11                   “(ii) 1 additional green star for each 2  
 12                  miles per gallon by which the automobile ex-  
 13                  ceeds such standard.

14           “(C) GOLD STARS.—Under the Fuelstar Pro-  
 15           gram, a manufacturer may include a gold star on  
 16           the label maintained on an automobile under para-  
 17           graph (1) if—

18                   “(i) in the case of a passenger automobile,  
 19                   the automobile attains a fuel economy of at  
 20                   least 50 miles per gallon; and

21                   “(ii) in the case of a light truck, the truck  
 22                   attains a fuel economy of at least 37 miles per  
 23                   gallon.”.



1     **TITLE I—CORPORATE AVERAGE**  
 2     **FUEL ECONOMY STANDARDS**

3     **SEC. 101. SHORT TITLE; TABLE OF CONTENTS.**

4         (a) *SHORT TITLE.*—*This title may be cited as the*  
 5     *“Ten-in-Ten Fuel Economy Act”.*

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

*TITLE I—CORPORATE AVERAGE FUEL ECONOMY STANDARDS*

- Sec. 101. Short title; table of contents.*
- Sec. 102. Average fuel economy standards for automobiles, medium-duty trucks, and heavy duty trucks.*
- Sec. 103. Amending fuel economy standards.*
- Sec. 104. Definitions.*
- Sec. 105. Ensuring safety of automobiles.*
- Sec. 106. Credit trading program.*
- Sec. 107. Labels for fuel economy and greenhouse gas emissions.*
- Sec. 108. Continued applicability of existing standards.*
- Sec. 109. National Academy of Sciences studies.*
- Sec. 110. Standards for executive agency automobiles.*
- Sec. 111. Ensuring availability of flexible fuel vehicles.*
- Sec. 112. Increasing consumer awareness of flexible fuel vehicles.*
- Sec. 113. Periodic review of accuracy of fuel economy labeling procedures.*
- Sec. 114. Tire fuel efficiency consumer information.*
- Sec. 115. Advanced battery initiative.*
- Sec. 116. Biodiesel standards.*
- Sec. 117. Use of civil penalties for research and development.*
- Sec. 118. Energy security fund and alternative fuel grant program.*
- Sec. 119. Authorization of appropriations.*

8     **SEC. 102. AVERAGE FUEL ECONOMY STANDARDS FOR AUTO-**  
 9                     **MOBILES, MEDIUM-DUTY TRUCKS, AND HEAVY**  
 10                    **DUTY TRUCKS.**

11         (a) *INCREASED STANDARDS.*—*Section 32902 of title*  
 12     *49, United States Code, is amended—*

13                 (1) *by striking “NON-PASSENGER AUTO-*  
 14             *MOBILES.—” in subsection (a) and inserting “PRE-*  
 15             *SCRIPTION OF STANDARDS BY REGULATION.—”;*

1           (2) by striking “automobiles (except passenger  
2           automobiles)” in subsection (a) and inserting “auto-  
3           mobiles, medium-duty trucks, and heavy-duty trucks”;  
4           and

5           (3) by striking subsection (b) and inserting the  
6           following:

7           “(b) *STANDARDS FOR AUTOMOBILES, MEDIUM-DUTY*  
8           *TRUCKS, AND HEAVY-DUTY TRUCKS.*—

9           “(1) *IN GENERAL.*—*The Secretary of Transpor-*  
10           *tation, after consultation with the Administrator of*  
11           *the Environmental Protection Agency, shall prescribe*  
12           *average fuel economy standards for automobiles, me-*  
13           *diun-duty trucks, and heavy-duty trucks manufac-*  
14           *tured by a manufacturer in each model year begin-*  
15           *ning with model year 2011 in accordance with sub-*  
16           *section (c).*

17           “(2) *ANNUAL INCREASES IN FUEL ECONOMY*  
18           *STANDARDS.*—

19           “(A) *BASELINE AVERAGE FUEL ECONOMY*  
20           *STANDARDS FOR MEDIUM- AND HEAVY-DUTY*  
21           *TRUCKS.*—*For the first 2 model years beginning*  
22           *after the submission to Congress of the initial re-*  
23           *port by the National Academy of Sciences re-*  
24           *quired by section 10 of the Ten-in-Ten Act, the*  
25           *average fuel economy required to be attained for*

1           *each attribute class of medium-duty trucks and*  
 2           *heavy-duty trucks shall be the average combined*  
 3           *highway and city miles-per-gallon performance*  
 4           *of all vehicles within that class in the model year*  
 5           *immediately preceding the first of those 2 model*  
 6           *years (rounded to the nearest  $\frac{1}{10}$  mile per gal-*  
 7           *lon).*

8           “(B) *MEDIUM- AND HEAVY-DUTY TRUCK*  
 9           *FUEL ECONOMY AVERAGE AFTER BASELINE*  
 10           *MODEL YEAR.—For each model year beginning*  
 11           *after the 2 model years specified in subpara-*  
 12           *graph (A), the average fuel economy required to*  
 13           *be attained by the fleet of medium-duty trucks*  
 14           *and heavy-duty trucks manufactured in the*  
 15           *United States shall be at least 4 percent greater*  
 16           *than the average fuel economy required to be at-*  
 17           *tained for the fleet in the previous model year*  
 18           *(rounded to the nearest  $\frac{1}{10}$  mile per gallon).*  
 19           *Standards shall be issued for medium-duty*  
 20           *trucks and heavy-duty trucks for 20 model years.*

21           “(3) *FUEL ECONOMY TARGET FOR AUTO-*  
 22           *MOBILES.—*

23           “(A) *AUTOMOBILE FUEL ECONOMY AVERAGE*  
 24           *FOR MODEL YEARS 2011 THROUGH 2020.—The*  
 25           *Secretary shall prescribe average fuel economy*

1           standards for automobiles in each model year be-  
 2           ginning with model year 2011 to achieve a com-  
 3           bined fuel economy standard for model year  
 4           2020 of at least 35 miles per gallon for the fleet  
 5           of automobiles manufactured or sold in the  
 6           United States. The average fuel economy stand-  
 7           ards prescribed by the Secretary shall be the  
 8           maximum feasible average fuel economy stand-  
 9           ards for model years 2011 through 2019.

10           “(B) *AUTOMOBILE FUEL ECONOMY AVERAGE*  
 11           *FOR MODEL YEARS 2021 THROUGH 2030.*—For  
 12           model years 2021 through 2030, the average fuel  
 13           economy required to be attained by the fleet of  
 14           automobiles manufactured or sold in the United  
 15           States shall be at least 4 percent greater than the  
 16           average fuel economy standard required to be at-  
 17           tained for the fleet in the previous model year  
 18           (rounded to the nearest  $\frac{1}{10}$  mile per gallon).”.

19           (b) *AUTHORITY OF SECRETARY.*—Section 32902 of  
 20           title 49, United States Code, is amended by adding at the  
 21           end thereof the following:

22           “(k) *AUTHORITY OF THE SECRETARY.*—

23           “(1) *VEHICLE ATTRIBUTES.*—The authority of  
 24           the Secretary to prescribe by regulation average fuel  
 25           economy standards for automobiles, medium-duty

1       *trucks, and heavy-duty trucks under this section in-*  
 2       *cludes the authority—*

3               “(A) to prescribe standards based on vehicle  
 4               attributes and to express the standards in the  
 5               form of a mathematical function; and

6               “(B) to issue regulations under this title  
 7               prescribing average fuel economy standards for 1  
 8               or more model years.

9               “(2) *PROHIBITION OF UNIFORM PERCENTAGE IN-*  
 10              *CREASE.—When the Secretary prescribes a standard,*  
 11              *or prescribes an amendment under this section that*  
 12              *changes a standard, the standard may not be ex-*  
 13              *pressed as a uniform percentage increase from the*  
 14              *fuel-economy performance of attribute classes or cat-*  
 15              *egories already achieved in a model year by a manu-*  
 16              *facturer.”.*

17   **SEC. 103. AMENDING FUEL ECONOMY STANDARDS.**

18       (a) *IN GENERAL.—Section 32902(c) of title 49, United*  
 19       *States Code, is amended to read as follows:*

20               “(c) *AMENDING FUEL ECONOMY STANDARDS.—*

21               “(1) *IN GENERAL.—Notwithstanding subsections*  
 22               (i) and (b), the Secretary of Transportation—

23                       “(A) may prescribe a standard higher than  
 24                       that required under subsection (b); or

1           “(B) may prescribe an average fuel econ-  
2           omy standard for a class of automobiles, me-  
3           dium-duty trucks, or heavy-duty trucks that is  
4           the maximum feasible level for the model year,  
5           despite being lower than the standard required  
6           under subsection (b), if the Secretary determines,  
7           based on clear and convincing evidence, that the  
8           average fuel economy standard prescribed in ac-  
9           cordance with subsections (a) and (b) for that  
10          class of vehicles in that model year is shown not  
11          to be cost-effective.

12          “(2) REQUIREMENTS FOR LOWER STANDARD.—  
13          *Before adopting an average fuel economy standard for*  
14          *a class of automobiles, medium-duty trucks, or heavy-*  
15          *duty trucks in a model year under paragraph (1)(B),*  
16          *the Secretary of Transportation shall do the following:*

17                 “(A) NOTICE OF PROPOSED RULE.—*Except*  
18                 *for standards to be promulgated by 2011, at least*  
19                 *30 months before the model year for which the*  
20                 *standard is to apply, the Secretary shall post a*  
21                 *notice of proposed rulemaking for the proposed*  
22                 *standard. The notice shall include a detailed*  
23                 *analysis of the basis for the Secretary’s deter-*  
24                 *mination under paragraph (1)(B).*

1           “(B) *FINAL RULE.*—At least 18 months be-  
 2 fore the model year for which the standard is to  
 3 apply, the Secretary shall promulgate a final  
 4 rule establishing the standard.

5           “(C) *REPORT.*—The Secretary shall submit  
 6 a report to Congress that outlines the steps that  
 7 need to be taken to avoid further reductions in  
 8 average fuel economy standards.

9           “(3) *MAXIMUM FEASIBLE STANDARD.*—An aver-  
 10 age fuel economy standard prescribed for a class of  
 11 automobiles, medium-duty trucks, or heavy-duty  
 12 trucks in a model year under paragraph (1) shall be  
 13 the maximum feasible standard.”.

14       (b) *FEASIBILITY CRITERIA.*—Section 32902(f) of title  
 15 49, United States Code, is amended to read as follows:

16       “(f) *DECISIONS ON MAXIMUM FEASIBLE AVERAGE*  
 17 *FUEL ECONOMY.*—

18           “(1) *IN GENERAL.*—When deciding maximum  
 19 feasible average fuel economy under this section, the  
 20 Secretary shall consider—

21           “(A) economic practicability;

22           “(B) the effect of other motor vehicle stand-  
 23 ards of the Government on fuel economy;

24           “(C) environmental impacts; and

1           “(D) the need of the United States to con-  
2           serve energy.

3           “(2) *LIMITATIONS.*—*In setting any standard*  
4           *under subsection (b), (c), or (d), the Secretary shall*  
5           *ensure that each standard is the highest standard*  
6           *that—*

7                   “(A) *is technologically achievable;*

8                   “(B) *can be achieved without materially re-*  
9                   *ducing the overall safety of automobiles, me-*  
10                   *dium-duty trucks, and heavy-duty trucks manu-*  
11                   *factured or sold in the United States;*

12                   “(C) *is not less than the standard for that*  
13                   *class of vehicles from any prior year; and*

14                   “(D) *is cost-effective.*

15           “(3) *DETERMINING COST-EFFECTIVENESS.*—

16                   “(A) *IN GENERAL.*—*In determining cost ef-*  
17                   *fectiveness under paragraph (2)(D), the Sec-*  
18                   *retary shall take into account the total value to*  
19                   *the United States of reduced fuel use, including*  
20                   *the monetary value of the reduced fuel use over*  
21                   *the life of the vehicle.*

22                   “(B) *ADDITIONAL FACTORS FOR CONSIDER-*  
23                   *ATION BY SECRETARY.*—*The Secretary shall con-*  
24                   *sider in the analysis the following factors:*

25                           “(i) *Economic security.*



1           “(ii) *The impact of the oil or energy*  
2           *intensity of the United States economy on*  
3           *the sensitivity of the economy to oil and*  
4           *other fuel price changes, including the mag-*  
5           *nitude of gross domestic product losses in*  
6           *response to short term price shocks or long*  
7           *term price increases.*

8           “(iii) *National security, including the*  
9           *impact of United States payments for oil*  
10           *and other fuel imports on political, eco-*  
11           *nomical, and military developments in unsta-*  
12           *ble or unfriendly oil-exporting countries.*

13           “(iv) *The uninternalized costs of pipe-*  
14           *line and storage oil seepage, and for risk of*  
15           *oil spills from production, handling, and*  
16           *transport, and related landscape damage.*

17           “(v) *The emissions of pollutants in-*  
18           *cluding greenhouse gases over the lifecycle of*  
19           *the fuel and the resulting costs to human*  
20           *health, the economy, and the environment.*

21           “(vi) *Such additional factors as the*  
22           *Secretary deems relevant.*

23           “(4) *MINIMUM VALUATION.—When considering*  
24           *the value to consumers of a gallon of gasoline saved,*  
25           *the Secretary of Transportation shall use as a min-*

1 *imum value the value of the gasoline prices projected*  
2 *by the Energy Information Administration for the pe-*  
3 *riod covered by the standard beginning in the year*  
4 *following the year in which the standards are estab-*  
5 *lished.*

6 “(5) *COST-EFFECTIVE DEFINED.*—*In this sub-*  
7 *section, the term ‘cost-effective’ means that the total*  
8 *value to the United States of reduced fuel use from a*  
9 *proposed fuel economy standard is greater than or*  
10 *equal to the total cost to the United States of such*  
11 *standard. Notwithstanding this definition, the Sec-*  
12 *retary shall not base the level of any standard on any*  
13 *technology whose cost to the United States is substan-*  
14 *tially more than the value to the United States of the*  
15 *reduction in fuel use attributable to that technology.”.*

16 *(c) CONSULTATION REQUIREMENT.*—*Section 32902(i)*  
17 *of title 49, United States Code, is amended by inserting*  
18 *“and the Administrator of the Environmental Protection*  
19 *Agency” after “Energy”.*

20 *(d) COMMENTS.*—*Section 32902(j) of title 49, United*  
21 *States Code, is amended—*

22 *(1) by striking paragraph (1) and inserting “(1)*  
23 *Before issuing a notice proposing to prescribe or*  
24 *amend an average fuel economy standard under sub-*  
25 *section (b), (c), or (g) of this section, the Secretary of*

1       *Transportation shall give the Secretary of Energy*  
2       *and Administrator of the Environmental Protection*  
3       *Agency at least 10 days after the receipt of the notice*  
4       *during which the Secretary of Energy and Adminis-*  
5       *trator may, if the Secretary of Energy or Adminis-*  
6       *trator concludes that the proposed standard would ad-*  
7       *versely affect the conservation goals of the Secretary*  
8       *of Energy or environmental protection goals of the*  
9       *Administrator, provide written comments to the Sec-*  
10       *retary of Transportation about the impact of the*  
11       *standard on those goals. To the extent the Secretary*  
12       *of Transportation does not revise a proposed standard*  
13       *to take into account comments of the Secretary of En-*  
14       *ergy or Administrator on any adverse impact of the*  
15       *standard, the Secretary of Transportation shall in-*  
16       *clude those comments in the notice.”; and*

17               (2) by inserting “and the Administrator” after  
18       “Energy” each place it appears in paragraph (2).

19       (e) *TECHNICAL AND CONFORMING AMENDMENTS.—*

20               (1) *Section 32902(d) of title 49, United States*  
21       *Code, is amended by striking “passenger” each place*  
22       *it appears.*

23               (2) *Section 32902(g) of title 49, United States*  
24       *Code, is amended—*

1           (A) by striking “subsection (a) or (d)” each  
 2           place it appears in paragraph (1) and inserting  
 3           “subsection (b), (c), or (d)”; and

4           (B) striking “(and submit the amendment  
 5           to Congress when required under subsection  
 6           (c)(2) of this section)” in paragraph (2).

7 **SEC. 104. DEFINITIONS.**

8           (a) *IN GENERAL.*—Section 32901(a) of title 49, United  
 9 States Code, is amended—

10           (1) by striking paragraph (3) and inserting the  
 11 following:

12           “(3) except as provided in section 32908 of this  
 13 title, ‘automobile’ means a 4-wheeled vehicle that is  
 14 propelled by fuel, or by alternative fuel, manufactured  
 15 primarily for use on public streets, roads, and high-  
 16 ways (except a vehicle operated only on a rail line),  
 17 and rated at not more than 10,000 pounds gross vehi-  
 18 cle weight.”;

19           (2) by inserting after paragraph (10) the fol-  
 20 lowing:

21           “(10A) ‘heavy-duty truck’ means a truck (as de-  
 22 fined in section 30127) with a gross vehicle weight in  
 23 excess of 26,000 pounds.”;

24           (3) by inserting after paragraph (13) the fol-  
 25 lowing:

1           “(13A) ‘medium-duty truck’ means a truck (as  
2           defined in section 30127) with a gross vehicle weight  
3           of at least 10,000 pounds but not more than 26,000  
4           pounds.”; and

5           (4) by striking paragraph (16).

6           (b) *DEADLINE FOR REGULATIONS.*—The Secretary of  
7           Transportation—

8           (1) shall issue proposed regulations imple-  
9           menting the amendments made by subsection (a) not  
10          later than 1 year after the date of the enactment of  
11          this Act; and

12          (2) shall issue final regulations implementing  
13          the amendments not later than 18 months after the  
14          date of the enactment of this Act.

15          (c) *EFFECTIVE DATE.*—Regulations prescribed under  
16          subsection (b) shall apply beginning with model year 2010.

17       **SEC. 105. ENSURING SAFETY OF AUTOMOBILES.**

18          (a) *IN GENERAL.*—The Secretary of Transportation  
19          shall exercise such authority under Federal law as the Sec-  
20          retary may have to ensure that automobiles (as defined in  
21          section 32901 of title 49, United States Code) are safe.

22          (b) *VEHICLE SAFETY.*—Subchapter II of chapter 301  
23          of title 49, United States Code, is amended by adding at  
24          the end the following:

1 **“§ 30129. Vehicle compatibility and aggressivity re-**  
2 **duction standard**

3 “(a) *STANDARDS.*—*The Secretary of Transportation*  
4 *shall issue a motor vehicle safety standard to reduce auto-*  
5 *mobile incompatibility and aggressivity. The standard shall*  
6 *address characteristics necessary to ensure better manage-*  
7 *ment of crash forces in multiple vehicle frontal and side*  
8 *impact crashes between different types, sizes, and weights*  
9 *of automobiles with a gross vehicle weight of 10,000 pounds*  
10 *or less in order to decrease occupant deaths and injuries.*

11 “(b) *CONSUMER INFORMATION.*—*The Secretary shall*  
12 *develop and implement a public information side and fron-*  
13 *tal compatibility crash test program with vehicle ratings*  
14 *based on risks to occupants, risks to other motorists, and*  
15 *combined risks by vehicle make and model.”.*

16 (c) *RULEMAKING DEADLINES.*—

17 (1) *RULEMAKING.*—*The Secretary of Transpor-*  
18 *tation shall issue—*

19 (A) *a notice of a proposed rulemaking*  
20 *under section 30129 of title 49, United States*  
21 *Code, not later than January 1, 2010; and*

22 (B) *a final rule under such section not later*  
23 *than December 31, 2012.*

24 (2) *EFFECTIVE DATE OF REQUIREMENTS.*—*Any*  
25 *requirement imposed under the final rule issued*

1        *under paragraph (1) shall become fully effective not*  
 2        *later than September 1, 2013.*

3        *(d) CONFORMING AMENDMENT.—The chapter analysis*  
 4        *for chapter 301 is amended by inserting after the item relat-*  
 5        *ing to section 30128 the following:*

*“30129. Vehicle compatibility and aggressivity reduction standard.”.*

6        **SEC. 106. CREDIT TRADING PROGRAM.**

7        *Section 32903 of title 49, United States Code, is*  
 8        *amended—*

9                *(1) by striking “passenger” each place it ap-*  
 10        *pears;*

11                *(2) by striking “section 32902(b)–(d) of this*  
 12        *title” each place it appears and inserting “subsection*  
 13        *(a), (c), or (d) of section 32902”;*

14                *(3) by striking “3 consecutive model years” in*  
 15        *subsections (a)(1) and (a)(2) and inserting “5 con-*  
 16        *secutive model years”;*

17                *(4) in subsection (a)(2), by striking “clause (1)*  
 18        *of this subsection,” and inserting “paragraph (1)”;*  
 19        *and*

20                *(5) by striking “3 model years” in subsection*  
 21        *(b)(2) and inserting “5 model years”; and*

22                *(6) by striking subsection (e) and inserting the*  
 23        *following:*

24        *“(e) CREDIT TRADING AMONG MANUFACTURERS.—*  
 25        *The Secretary of Transportation may establish, by regula-*

1 *tion, a corporate average fuel economy credit trading pro-*  
 2 *gram to allow manufacturers whose automobiles exceed the*  
 3 *average fuel economy standards prescribed under section*  
 4 *32902 to earn credits to be sold to manufacturers whose*  
 5 *automobiles fail to achieve the prescribed standards.”.*

6 **SEC. 107. LABELS FOR FUEL ECONOMY AND GREENHOUSE**  
 7 **GAS EMISSIONS.**

8 *Section 32908 of title 49, United States Code, is*  
 9 *amended—*

10 *(1) by redesignating subparagraph (F) of sub-*  
 11 *section (b)(1) as subparagraph (H) and inserting*  
 12 *after subparagraph (E) the following:*

13 *“(F) a label (or a logo imprinted on a label re-*  
 14 *quired by this paragraph) that—*

15 *“(i) reflects an automobile’s performance on*  
 16 *the basis of criteria developed by the Adminis-*  
 17 *trator to reflect the fuel economy and greenhouse*  
 18 *gas and other emissions consequences of oper-*  
 19 *ating the automobile over its likely useful life;*

20 *“(ii) permits consumers to compare per-*  
 21 *formance results under clause (i) among all*  
 22 *automobiles; and*

23 *“(iii) is designed to encourage the manufac-*  
 24 *ture and sale of automobiles that meet or exceed*



1 applicable fuel economy standards under section  
2 32902.

3 “(G) a fuelstar under paragraph (5).”; and  
4 (2) by adding at the end of subsection (b) the fol-  
5 lowing:

6 “(4) GREEN LABEL PROGRAM.—

7 “(A) MARKETING ANALYSIS.—Not later than 2  
8 years after the date of the enactment of the Ten-in-  
9 Ten Fuel Economy Act, the Administrator shall im-  
10 plement a consumer education program and execute  
11 marketing strategies to improve consumer under-  
12 standing of automobile performance described in  
13 paragraph (1)(F).

14 “(B) ELIGIBILITY.—Not later than 3 years after  
15 the date described in subparagraph (A), the Adminis-  
16 trator shall issue requirements for the label or logo re-  
17 quired under paragraph (1)(F) to ensure that an  
18 automobile is not eligible for the label or logo unless  
19 it—

20 “(i) meets or exceeds the applicable fuel  
21 economy standard; or

22 “(ii) will have the lowest greenhouse gas  
23 emissions over the useful life of the vehicle of all  
24 vehicles in the vehicle attribute class to which it  
25 belongs in that model year.

1 “(5) *FUELSTAR PROGRAM*.—

2 “(A) *IN GENERAL*.—*The Secretary shall establish*  
 3 *a program, to be known as the ‘Fuelstar Program’,*  
 4 *under which stars shall be imprinted on or attached*  
 5 *to the label required by paragraph (1).*

6 “(B) *GREEN STARS*.—*Under the Fuelstar Pro-*  
 7 *gram, a manufacturer may include on the label*  
 8 *maintained on an automobile under paragraph (1)—*

9 “(i) *1 green star for any automobile that*  
 10 *meets the average fuel economy standard for the*  
 11 *model year under section 32902; and*

12 “(ii) *1 additional green star for each 2*  
 13 *miles per gallon by which the automobile exceeds*  
 14 *such standard.*

15 “(C) *GOLD STARS*.—*Under the Fuelstar Pro-*  
 16 *gram, a manufacturer may include a gold star on the*  
 17 *label maintained on an automobile under paragraph*  
 18 *(1) if the automobile attains a fuel economy of at*  
 19 *least 50 miles per gallon.”.*

20 **SEC. 108. CONTINUED APPLICABILITY OF EXISTING STAND-**  
 21 **ARDS.**

22 *Nothing in this title, or the amendments made by this*  
 23 *title, shall be construed to affect the application of section*  
 24 *32902 of title 49, United States Code, to passenger auto-*

1 *mobiles or non-passenger automobiles manufactured before*  
2 *model year 2011.*

3 **SEC. 109. NATIONAL ACADEMY OF SCIENCES STUDIES.**

4 (a) *IN GENERAL.*—*As soon as practicable after the*  
5 *date of enactment of this Act, the Secretary of Transpor-*  
6 *tation shall execute an agreement with the National Acad-*  
7 *emy of Sciences to develop a report evaluating vehicle fuel*  
8 *economy standards, including—*

9 (1) *an assessment of automotive technologies and*  
10 *costs to reflect developments since the Academy’s 2002*  
11 *report evaluating the corporate average fuel economy*  
12 *standards was conducted;*

13 (2) *an analysis of existing and potential tech-*  
14 *nologies that may be used practically to improve*  
15 *automobile, medium-duty truck, or heavy-duty truck*  
16 *fuel economy;*

17 (3) *an analysis of how such technologies may be*  
18 *practically integrated into the automotive, medium-*  
19 *duty truck, or heavy-duty truck manufacturing proc-*  
20 *ess; and*

21 (4) *an assessment of how such technologies may*  
22 *be used to meet the new fuel economy standards under*  
23 *chapter 329 of title 49, United States Code, as*  
24 *amended by this title.*

1       (b) *QUINQUENNIAL UPDATES.*—After submitting the  
2 initial report, the Academy shall update the report at 5  
3 year intervals thereafter through 2025.

4       (c) *REPORT.*—The Academy shall submit the report to  
5 the Secretary, the Senate Committee on Commerce, Science,  
6 and Transportation and the House of Representatives Com-  
7 mittee on Energy and Commerce, with its findings and rec-  
8 ommendations no later than 18 months after the date on  
9 which the Secretary executes the agreement with the Acad-  
10 emy.

11 **SEC. 110. STANDARDS FOR EXECUTIVE AGENCY AUTO-**  
12 **MOBILES.**

13       (a) *IN GENERAL.*—Section 32917 of title 49, United  
14 States Code, is amended to read as follows:

15 **“§ 32917. Standards for executive agency automobiles**

16       “(a) *FUEL EFFICIENCY.*—The head of an Executive  
17 agency shall ensure that each new automobile procured by  
18 the Executive agency is as fuel efficient as practicable.

19       “(b) *DEFINITIONS.*—In this section:

20               “(1) *EXECUTIVE AGENCY.*—The term ‘Executive  
21 agency’ has the meaning given that term in section  
22 105 of title 5.

23               “(2) *NEW AUTOMOBILE.*—The term ‘new auto-  
24 mobile’, with respect to the fleet of automobiles of an  
25 executive agency, means an automobile that is leased

1       *for at least 60 consecutive days or bought, by or for*  
 2       *the Executive agency, after September 30, 2008. The*  
 3       *term does not include any vehicle designed for com-*  
 4       *bat-related missions, law enforcement work, or emer-*  
 5       *gency rescue work.”.*

6       **(b) REPORT.**—*The Administrator of the General Serv-*  
 7       *ices Administration shall develop a report describing and*  
 8       *evaluating the efforts of the heads of the Executive agencies*  
 9       *to comply with section 32917 of title 49, United States*  
 10       *Code, for fiscal year 2009. The Administrator shall submit*  
 11       *the report to Congress no later than December 31, 2009.*

12       **SEC. 111. ENSURING AVAILABILITY OF FLEXIBLE FUEL**  
 13                               **AUTOMOBILES.**

14       **(a) AMENDMENT.**—

15               **(1) IN GENERAL.**—*Chapter 329 of title 49,*  
 16       *United States Code, is amended by inserting after sec-*  
 17       *tion 32902 the following:*

18       **“§ 32902A. Requirement to manufacture flexible fuel**  
 19                               **automobiles**

20               **“(a) IN GENERAL.**—*For each model year, each manu-*  
 21       *facturer of new automobiles described in subsection (b) shall*  
 22       *ensure that the percentage of such automobiles manufac-*  
 23       *tured in a particular model year that are flexible fuel vehi-*  
 24       *cles shall be not less than the percentage set forth for that*  
 25       *model year in the following table:*

<b><i>“If the model year is:</i></b>	<b><i>The percentage of flexible fuel automobiles shall be:</i></b>
2012 .....	50 percent
2013 .....	60 percent
2014 .....	70 percent
2015 .....	80 percent.

1       “(b) *AUTOMOBILES TO WHICH SECTION APPLIES.—*

2 *An automobile is described in this subsection if it—*

3               “(1) *is capable of operating on gasoline or diesel*  
 4 *fuel;*

5               “(2) *is distributed in interstate commerce for*  
 6 *sale in the United States; and*

7               “(3) *does not contain certain engines that the*  
 8 *Secretary of Transportation, in consultation with the*  
 9 *Administrator of the Environmental Protection Agen-*  
 10 *cy and the Secretary of Energy, may temporarily ex-*  
 11 *clude from the definition because it is technologically*  
 12 *infeasible for the engines to have flexible fuel capa-*  
 13 *bility at any time during a period that the Secre-*  
 14 *taries and the Administrator are engaged in an active*  
 15 *research program with the vehicle manufacturers to*  
 16 *develop that capability for the engines.”.*

17               (2) *DEFINITION OF FLEXIBLE FUEL AUTO-*  
 18 *MOBILE.—Section 32901(a) of title 49, United States*  
 19 *Code, is amended by inserting after paragraph (8),*  
 20 *the following:*

21               “(8A) *‘flexible fuel automobile’ means an auto-*  
 22 *mobile described in paragraph (8)(A).”.*

1           (3) *CLERICAL AMENDMENT.*—*The table of sec-*  
 2           *tions for chapter 329 of title 49, United States Code,*  
 3           *is amended by inserting after the item relating to sec-*  
 4           *tion 32902 the following:*

“*Sec. 32902A. Requirement to manufacture flexible fuel automobiles.*”.

5           (b) *RULEMAKING.*—

6           (1) *IN GENERAL.*—*Not later than 1 year after*  
 7           *the date of the enactment of this Act, the Secretary of*  
 8           *Transportation shall issue regulations to carry out*  
 9           *the amendments made by subsection (a).*

10          (2) *HARDSHIP EXEMPTION.*—*The regulations*  
 11          *issued pursuant to paragraph (1) shall include a*  
 12          *process by which a manufacturer may be exempted*  
 13          *from the requirement under section 32902A(a) upon*  
 14          *demonstrating that such requirement would create a*  
 15          *substantial economic hardship for the manufacturer.*

16       **SEC. 112. INCREASING CONSUMER AWARENESS OF FLEXI-**  
 17                               **BLE FUEL AUTOMOBILES.**

18          *Section 32908 of title 49, United States Code, is*  
 19          *amended by adding at the end the following:*

20          “(g) *INCREASING CONSUMER AWARENESS OF FLEXI-*  
 21          *BLE FUEL AUTOMOBILES.*—(1) *The Secretary of Transpor-*  
 22          *tation shall prescribe regulations that require the manufac-*  
 23          *turer of automobiles distributed in interstate commerce for*  
 24          *sale in the United States—*

1           “(A) to prominently display a permanent badge  
2           or emblem on the quarter panel or tailgate of each  
3           such automobile that indicates such vehicle is capable  
4           of operating on alternative fuel; and

5           “(B) to include information in the owner’s man-  
6           ual of each such automobile information that de-  
7           scribes—

8                   “(i) the capability of the automobile to op-  
9                   erate using alternative fuel;

10                   “(ii) the benefits of using alternative fuel,  
11                   including the renewable nature, and the environ-  
12                   mental benefits of using alternative fuel; and

13           “(C) to contain a fuel tank cap that is clearly  
14           labeled to inform consumers that the automobile is ca-  
15           pable of operating on alternative fuel.

16           “(2) The Secretary of Transportation shall collaborate  
17           with automobile retailers to develop voluntary methods for  
18           providing prospective purchasers of automobiles with infor-  
19           mation regarding the benefits of using alternative fuel in  
20           automobiles, including—

21                   “(A) the renewable nature of alternative fuel;  
22                   and

23                   “(B) the environmental benefits of using alter-  
24                   native fuel.”.



1 **SEC. 113. PERIODIC REVIEW OF ACCURACY OF FUEL ECON-**  
 2 **OMY LABELING PROCEDURES.**

3 *Beginning in December, 2009, and not less often than*  
 4 *every 5 years thereafter, the Secretary of Transportation,*  
 5 *in consultation with the Administrator of the Environ-*  
 6 *mental Protection Agency, shall—*

7 *(1) reevaluate the fuel economy labeling proce-*  
 8 *dures described in the final rule published in the Fed-*  
 9 *eral Register on December 27, 2006 (71 Fed. Reg.*  
 10 *77,872; 40 C.F.R. parts 86 and 600) to determine*  
 11 *whether changes in the factors used to establish the la-*  
 12 *beling procedures warrant a revision of that process;*  
 13 *and*

14 *(2) submit a report to the Senate Committee on*  
 15 *Commerce, Science, and Transportation and the*  
 16 *House of Representatives Committee on Energy and*  
 17 *Commerce that describes the results of the reevalua-*  
 18 *tion process.*

19 **SEC. 114. TIRE FUEL EFFICIENCY CONSUMER INFORMA-**  
 20 **TION.**

21 *(a) IN GENERAL.—Chapter 301 of title 49, United*  
 22 *States Code, is amended by inserting after section 30123*  
 23 *the following new section:*

24 **“§ 30123A. Tire fuel efficiency consumer information**

25 **“(a) RULEMAKING.—**

1           “(1) *IN GENERAL.*—Not later than 18 months  
2           after the date of enactment of the *Ten-in-Ten Fuel*  
3           *Economy Act*, the Secretary of Transportation shall,  
4           after notice and opportunity for comment, promulgate  
5           rules establishing a national tire fuel efficiency con-  
6           sumer information program for tires designed for use  
7           on motor vehicles to educate consumers about the ef-  
8           fect of tires on automobile fuel efficiency.

9           “(2) *ITEMS INCLUDED IN RULE.*—The rule-  
10          making shall include—

11           “(A) a national tire fuel efficiency rating  
12          system for motor vehicle tires to assist consumers  
13          in making more educated tire purchasing deci-  
14          sions;

15           “(B) requirements for providing informa-  
16          tion to consumers, including information at the  
17          point of sale and other potential information  
18          dissemination methods, including the Internet;

19           “(C) specifications for test methods for  
20          manufacturers to use in assessing and rating  
21          tires to avoid variation among test equipment  
22          and manufacturers; and

23           “(D) a national tire maintenance consumer  
24          education program including, information on

1            *tire inflation pressure, alignment, rotation, and*  
2            *tread wear to maximize fuel efficiency.*

3            “(3) *APPLICABILITY.—This section shall not*  
4            *apply to tires excluded from coverage under section*  
5            *575.104(c)(2) of title 49, Code of Federal Regulations,*  
6            *as in effect on date of enactment of the Ten-in-Ten*  
7            *Fuel Economy Act.*

8            “(b) *CONSULTATION.—The Secretary shall consult*  
9            *with the Secretary of Energy and the Administrator of the*  
10           *Environmental Protection Agency on the means of con-*  
11           *veying tire fuel efficiency consumer information.*

12           “(c) *REPORT TO CONGRESS.—The Secretary shall con-*  
13           *duct periodic assessments of the rules promulgated under*  
14           *this section to determine the utility of such rules to con-*  
15           *sumers, the level of cooperation by industry, and the con-*  
16           *tribution to national goals pertaining to energy consump-*  
17           *tion. The Secretary shall transmit periodic reports detail-*  
18           *ing the findings of such assessments to the Senate Com-*  
19           *mittee on Commerce, Science, and Transportation and the*  
20           *House of Representatives Committee on Energy and Com-*  
21           *merce.*

22           “(d) *TIRE MARKING.—The Secretary shall not require*  
23           *permanent labeling of any kind on a tire for the purpose*  
24           *of tire fuel efficiency information.*

1       “(e) *PREEMPTION.*—When a requirement under this  
 2 section is in effect, a State or political subdivision of a  
 3 State may adopt or enforce a law or regulation on tire fuel  
 4 efficiency consumer information only if the law or regula-  
 5 tion is identical to that requirement. Nothing in this section  
 6 shall be construed to preempt a State or political subdivi-  
 7 sion of a State from regulating the fuel efficiency of tires  
 8 not otherwise preempted under this chapter.”.

9       (b) *ENFORCEMENT.*—Section 30165(a) of title 49,  
 10 United States Code, is amended by adding at the end the  
 11 following:

12               “(4) *SECTION 30123A.*—Any person who fails to  
 13 comply with the national tire fuel efficiency consumer  
 14 information program under section 30123A is liable  
 15 to the United States Government for a civil penalty  
 16 of not more than \$50,000 for each violation.”.

17       (c) *Conforming Amendment.*—The chapter analysis  
 18 for chapter 301 of title 49, United States Code, is amended  
 19 by inserting after the item relating to section 30123 the  
 20 following:

“30123A. Tire fuel efficiency consumer information.”.

21 **SEC. 115. ADVANCED BATTERY INITIATIVE.**

22       (a) *IN GENERAL.*—The Secretary of Transportation  
 23 shall establish and carry out an Advanced Battery Initia-  
 24 tive in accordance with this section to support research, de-

1 *velopment, demonstration, and commercial application of*  
2 *battery technologies.*

3 (b) *INDUSTRY ALLIANCE.*—*Not later than 180 days*  
4 *after the date of enactment of this Act, the Secretary shall*  
5 *competitively select an Industry Alliance to represent par-*  
6 *ticipants who are private, for-profit firms headquartered in*  
7 *the United States, the primary business of which is the*  
8 *manufacturing of batteries.*

9 (c) *RESEARCH.*—

10 (1) *GRANTS.*—*The Secretary shall carry out re-*  
11 *search activities of the Initiative through competi-*  
12 *tively-awarded grants to—*

13 (A) *researchers, including Industry Alliance*  
14 *participants;*

15 (B) *small businesses;*

16 (C) *National Laboratories; and*

17 (D) *institutions of higher education.*

18 (2) *INDUSTRY ALLIANCE.*—*The Secretary shall*  
19 *annually solicit from the Industry Alliance—*

20 (A) *comments to identify advanced battery*  
21 *technology needs relevant to electric drive tech-*  
22 *nology;*

23 (B) *an assessment of the progress of re-*  
24 *search activities of the Initiative; and*

1           (C) assistance in annually updating ad-  
2           vanced battery technology roadmaps.

3           (d) *AVAILABILITY TO THE PUBLIC.*—The information  
4 and roadmaps developed under this section shall be avail-  
5 able to the public.

6           (e) *PREFERENCE.*—In making awards under this sub-  
7 section, the Secretary shall give preference to participants  
8 in the Industry Alliance.

9           (f) *COST SHARING.*—In carrying out this section, the  
10 Secretary shall require cost sharing in accordance with sec-  
11 tion 120(b) of title 23, United States Code.

12           (g) *AUTHORIZATION OF APPROPRIATIONS.*—There are  
13 authorized to be appropriated to carry out this section such  
14 sums as may be necessary for each of fiscal years 2008  
15 through 2012.

16 **SEC. 116. BIODIESEL STANDARDS.**

17           (a) *IN GENERAL.*—Not later than 180 days after the  
18 date of enactment of this Act, the President, in consultation  
19 with the Secretary of Transportation, the Secretary of En-  
20 ergy, and the Administrator of the Environmental Protec-  
21 tion Administration, shall promulgate standards for bio-  
22 diesel blend sold or introduced into commerce in the United  
23 States.

24           (b) *DEFINITIONS.*—In this section:

25           (1) *BIODIESEL.*—

1           (A) *IN GENERAL.*—*The term “biodiesel”*  
2           *means the monoalkyl esters of long chain fatty*  
3           *acids derived from plant or animal matter that*  
4           *meet—*

5                     *(i) the registration requirements for*  
6                     *fuels and fuel additives established by the*  
7                     *Environmental Protection Agency under*  
8                     *section 211 of the Clean Air Act (42 U.S.C.*  
9                     *7545); and*

10                    *(ii) the requirements of the American*  
11                    *Society of Testing and Materials D6751.*

12           (B) *INCLUSIONS.*—*The term “biodiesel” in-*  
13           *cludes esters described in subparagraph (A) de-*  
14           *rived from—*

15                    *(i) animal waste, including poultry*  
16                    *fat, poultry waste, and other waste mate-*  
17                    *rial; and*

18                    *(ii) municipal solid waste, sludge, and*  
19                    *oil derived from wastewater or the treat-*  
20                    *ment of wastewater.*

21           (2) *BIODIESEL BLEND.*—*The term “biodiesel*  
22           *blend” means a mixture of biodiesel and diesel fuel,*  
23           *including—*

1           (A) a blend of biodiesel and diesel fuel ap-  
 2           proximately 5 percent of the content of which is  
 3           biodiesel (commonly known as “B5”); and

4           (B) a blend of biodiesel and diesel fuel ap-  
 5           proximately 20 percent of the content of which is  
 6           biodiesel (commonly known as “B20”).

7   **SEC. 117. USE OF CIVIL PENALTIES FOR RESEARCH AND DE-**  
 8           **VELOPMENT.**

9           Section 32912 of title 49, United States Code, is  
 10          amended by adding at the end thereof the following:

11          “(e) *USE OF CIVIL PENALTIES.*—For fiscal year 2008  
 12          and each fiscal year thereafter, from the total amount de-  
 13          posited in the general fund of the Treasury during the pre-  
 14          ceding fiscal year from fines, penalties, and other funds ob-  
 15          tained through enforcement actions conducted pursuant to  
 16          this section (including funds obtained under consent de-  
 17          crees), the Secretary of the Treasury, subject to the avail-  
 18          ability of appropriations, shall—

19                 “(1) transfer 50 percent of such total amount to  
 20          the account providing appropriations to the Secretary  
 21          of Transportation for the administration of this chap-  
 22          ter, which shall be used by the Secretary to carry out  
 23          a program of research and development into fuel sav-  
 24          ing automotive technologies and to support rule-  
 25          making under this chapter; and



1           “(2) transfer 50 percent of such total amount to  
2           the Energy Security Fund established by section  
3           118(a) of the Ten-in-Ten Fuel Economy Act.

4 **SEC. 118. ENERGY SECURITY FUND AND ALTERNATIVE**  
5 **FUEL GRANT PROGRAM.**

6           (a) *ESTABLISHMENT OF FUND.*—

7           (1) *IN GENERAL.*—There is established in the  
8           Treasury a fund, to be known as the “Energy Secu-  
9           rity Fund” (referred to in this section as the  
10          “Fund”), consisting of—

11           (A) amounts transferred to the Fund under  
12           section 32912(e)(2) of title 49, United States  
13           Code; and

14           (B) amounts credited to the Fund under  
15           paragraph (2)(C).

16          (2) *INVESTMENT OF AMOUNTS.*—

17           (A) *IN GENERAL.*—The Secretary of the  
18           Treasury shall invest in interest-bearing obliga-  
19           tions of the United States such portion of the  
20           Fund as is not, in the judgment of the Secretary  
21           of the Treasury, required to meet current with-  
22           drawals.

23           (B) *SALE OF OBLIGATIONS.*—Any obliga-  
24           tion acquired by the Fund may be sold by the  
25           Secretary of the Treasury at the market price.

1           (C) *CREDITS TO FUND.*—*The interest on,*  
2           *and the proceeds from the sale or redemption of,*  
3           *any obligations held in the Fund shall be cred-*  
4           *ited to, and form a part of, the Fund in accord-*  
5           *ance with section 9602 of the Internal Revenue*  
6           *Code of 1986.*

7           (3) *USE OF AMOUNTS IN FUND.*—*Amounts in the*  
8           *Fund shall be made available to the Secretary of En-*  
9           *ergy, subject to the availability of appropriations, to*  
10          *carry out the grant program under subsection (b).*

11          (b) *ALTERNATIVE FUELS GRANT PROGRAM.*—

12           (1) *IN GENERAL.*—*Not later than 90 days after*  
13          *the date of enactment of this Act, the Secretary of En-*  
14          *ergy, acting through the Clean Cities Program of the*  
15          *Department of Energy, shall establish and carry out*  
16          *a program under which the Secretary shall provide*  
17          *grants to expand the availability to consumers of al-*  
18          *ternative fuels (as defined in section 32901(a) of title*  
19          *49, United States Code).*

20           (2) *ELIGIBILITY.*—

21           (A) *IN GENERAL.*—*Except as provided in*  
22          *subparagraph (B), any entity that is eligible to*  
23          *receive assistance under the Clean Cities Pro-*  
24          *gram shall be eligible to receive a grant under*  
25          *this subsection.*

1 (B) *EXCEPTIONS.*—

2 (i) *CERTAIN OIL COMPANIES.*—A large,  
3 vertically-integrated oil company shall not  
4 be eligible to receive a grant under this sub-  
5 section.

6 (ii) *PROHIBITION OF DUAL BENE-*  
7 *FITS.*—An entity that receives any other  
8 Federal funds for the construction or expan-  
9 sion of alternative refueling infrastructure  
10 shall not be eligible to receive a grant under  
11 this subsection for the construction or ex-  
12 pansion of the same alternative refueling  
13 infrastructure.

14 (C) *ENSURING COMPLIANCE.*—Not later  
15 than 30 days after the date of enactment of this  
16 Act, the Secretary of Energy shall promulgate  
17 regulations to ensure that, before receiving a  
18 grant under this subsection, an eligible entity  
19 meets applicable standards relating to the instal-  
20 lation, construction, and expansion of infrastruc-  
21 ture necessary to increase the availability to con-  
22 sumers of alternative fuels (as defined in section  
23 32901(a) of title 49, United States Code).

24 (3) *MAXIMUM AMOUNT.*—

1           (A) *GRANTS.*—*The amount of a grant pro-*  
 2           *vided under this subsection shall not exceed*  
 3           *\$30,000.*

4           (B) *AMOUNT PER STATION.*—*An eligible en-*  
 5           *tity shall receive not more than \$90,000 under*  
 6           *this subsection for any station of the eligible en-*  
 7           *tity during a fiscal year.*

8           (4) *USE OF FUNDS.*—

9           (A) *IN GENERAL.*—*A grant provided under*  
 10          *this subsection shall be used for the construction*  
 11          *or expansion of alternative fueling infrastruc-*  
 12          *ture.*

13          (B) *ADMINISTRATIVE EXPENSES.*—*Not more*  
 14          *than 3 percent of the amount of a grant provided*  
 15          *under this subsection shall be used for adminis-*  
 16          *trative expenses.*

17 **SEC. 119. AUTHORIZATION OF APPROPRIATIONS.**

18          *There are authorized to be appropriated to the Sec-*  
 19          *retary of Transportation \$25,000,000 for each of fiscal*  
 20          *years 2009 through 2021 to carry out the provisions of*  
 21          *chapter 329 of title 49, United States Code.*

22                   **TITLE II—PRICE GOUGING**

23 **SEC. 201. SHORT TITLE; TABLE OF CONTENTS.**

24          (a) *SHORT TITLE.*—*This title may be cited as the “Pe-*  
 25          *troleum Consumer Price Gouging Protection Act”.*

1           (b) *TABLE OF CONTENTS.*—*The table of contents for*  
 2 *this title is as follows:*

- Sec. 201. Short title; table of contents.*  
*Sec. 202. Definitions.*  
*Sec. 203. Prohibition on price gouging during energy emergencies.*  
*Sec. 204. Prohibition on market manipulation.*  
*Sec. 205. Prohibition on false information.*  
*Sec. 206. Presidential declaration of energy emergency.*  
*Sec. 207. Enforcement by the Federal Trade Commission.*  
*Sec. 208. Enforcement by State Attorneys General.*  
*Sec. 209. Penalties.*  
*Sec. 210. Effect on other laws.*

3 **SEC. 202. DEFINITIONS.**

4           *In this title:*

5                   (1) *AFFECTED AREA.*—*The term “affected area”*  
 6 *means an area covered by a Presidential declaration*  
 7 *of energy emergency.*

8                   (2) *SUPPLIER.*—*The term “supplier” means any*  
 9 *person engaged in the trade or business of selling or*  
 10 *reselling, at retail or wholesale, or distributing crude*  
 11 *oil, gasoline, or petroleum distillates.*

12                   (3) *PRICE GOUGING.*—*The term “price gouging”*  
 13 *means the charging of an unconscionably excessive*  
 14 *price by a supplier in an affected area.*

15                   (4) *UNCONSCIONABLY EXCESSIVE PRICE.*—*The*  
 16 *term “unconscionably excessive price” means a price*  
 17 *charged in an affected area for crude oil, gasoline, or*  
 18 *petroleum distillates that—*

19                           (A)(i) *represents a gross disparity between*  
 20 *the price at which it was offered for sale in the*

1 usual course of the supplier's business imme-  
2 diately prior to the President's declaration of an  
3 energy emergency;

4 (ii) grossly exceeds the price at which the  
5 same or similar crude oil, gasoline, or petroleum  
6 distillate was readily obtainable by other pur-  
7 chasers in the affected area; or

8 (iii) represents an exercise of unfair lever-  
9 age or unconscionable means on the part of the  
10 supplier, during a period of declared energy  
11 emergency; and

12 (B) is not attributable to increased whole-  
13 sale or operational costs outside the control of the  
14 supplier, incurred in connection with the sale of  
15 crude oil, gasoline, or petroleum distillates.

16 (5) COMMISSION.—The term “Commission”  
17 means the Federal Trade Commission.

18 **SEC. 203. PROHIBITION ON PRICE GOUGING DURING EN-**  
19 **ERGY EMERGENCIES.**

20 (a) IN GENERAL.—During any energy emergency de-  
21 clared by the President under section 206 of this title, it  
22 is unlawful for any supplier to sell, or offer to sell, crude  
23 oil, gasoline, or petroleum distillates in, or for use in, the  
24 area to which that declaration applies at an unconscionably  
25 excessive price.

1       (b) *FACTORS CONSIDERED.*—*In determining whether*  
2 *a violation of subsection (a) has occurred, there shall be*  
3 *taken into account, among other factors, the price that*  
4 *would reasonably equate supply and demand in a competi-*  
5 *tive and freely functioning market.*

6 **SEC. 204. PROHIBITION ON MARKET MANIPULATION.**

7       *It is unlawful for any person, directly or indirectly,*  
8 *to use or employ, in connection with the purchase or sale*  
9 *of crude oil, gasoline, or petroleum distillates at wholesale,*  
10 *any manipulative or deceptive device or contrivance, in*  
11 *contravention of such rules and regulations as the Commis-*  
12 *sion may prescribe as necessary or appropriate in the pub-*  
13 *lic interest or for the protection of United States citizens.*

14 **SEC. 205. PROHIBITION ON FALSE INFORMATION.**

15       (a) *IN GENERAL.*—*It is unlawful for any person to*  
16 *report information related to the wholesale price of crude*  
17 *oil, gasoline, or petroleum distillates to the Commission if—*

18           (1) *that person knew, or reasonably should have*  
19 *known, the information to be false or misleading;*

20           (2) *the information was required by law to be re-*  
21 *ported; and*

22           (3) *the person intended the false or misleading*  
23 *data to affect data compiled by the Commission for*  
24 *statistical or analytical purposes with respect to the*  
25 *market for crude oil, gasoline, or petroleum distillates.*

1 **SEC. 206. PRESIDENTIAL DECLARATION OF ENERGY EMER-**  
2 **GENCY.**

3 (a) *IN GENERAL.*—If the President finds that the  
4 health, safety, welfare, or economic well-being of the citizens  
5 of the United States is at risk because of a shortage or im-  
6 minent shortage of adequate supplies of crude oil, gasoline,  
7 or petroleum distillates due to a disruption in the national  
8 distribution system for crude oil, gasoline, or petroleum dis-  
9 tillates (including such a shortage related to a major dis-  
10 aster (as defined in section 102(2) of the Robert T. Stafford  
11 Disaster Relief and Emergency Assistance Act (42 U.S.C.  
12 5122(2))), or significant pricing anomalies in national en-  
13 ergy markets for crude oil, gasoline, or petroleum distillates,  
14 the President may declare that a Federal energy emergency  
15 exists.

16 (b) *SCOPE AND DURATION.*—The emergency declara-  
17 tion shall specify—

18 (1) the period, not to exceed 30 days, for which  
19 the declaration applies;

20 (2) the circumstance or condition necessitating  
21 the declaration; and

22 (3) the area or region to which it applies, which,  
23 for the 48 contiguous states may not be limited to a  
24 single State.

25 (c) *EXTENSIONS.*—The President may—



1           (1) *extend a declaration under subsection (a) for*  
2           *a period of not more than 30 days; and*

3           (2) *extend such a declaration more than once.*

4 **SEC. 207. ENFORCEMENT BY THE FEDERAL TRADE COMMIS-**  
5 **SION.**

6           (a) *ENFORCEMENT.*—*This title shall be enforced by the*  
7 *Federal Trade Commission. In enforcing section 203 of this*  
8 *title, the Commission shall give priority to enforcement ac-*  
9 *tions concerning companies with total United States whole-*  
10 *sale or retail sales of crude oil, gasoline, and petroleum dis-*  
11 *tillates in excess of \$500,000,000 per year but shall not ex-*  
12 *clude enforcement actions against companies with total*  
13 *United States wholesale sales of \$500,000,000 or less per*  
14 *year.*

15           (b) *VIOLATION IS UNFAIR OR DECEPTIVE ACT OR*  
16 *PRACTICE.*—*The violation of any provision of this title*  
17 *shall be treated as an unfair or deceptive act or practice*  
18 *proscribed under a rule issued under section 18(a)(1)(B)*  
19 *of the Federal Trade Commission Act (15 U.S.C.*  
20 *57a(a)(1)(B)).*

21           (c) *COMMISSION ACTIONS.*—*Following the declaration*  
22 *of an energy emergency by the President under section 206*  
23 *of this title, the Commission shall—*

24           (1) *establish within the Commission—*

1           (A) a toll-free hotline that a consumer may  
2           call to report an incident of price gouging in the  
3           affected area; and

4           (B) a program to develop and distribute to  
5           the public informational materials to assist resi-  
6           dents of the affected area in detecting and avoid-  
7           ing price gouging;

8           (2) consult with the Attorney General, the  
9           United States Attorney for the districts in which a  
10          disaster occurred (if the declaration is related to a  
11          major disaster), and State and local law enforcement  
12          officials to determine whether any supplier in the af-  
13          fected area is charging or has charged an unconscion-  
14          ably excessive price for crude oil, gasoline, or petro-  
15          leum distillates in the affected area; and

16          (3) conduct an investigation to determine wheth-  
17          er any supplier in the affected area has violated sec-  
18          tion 203 of this title, and upon such finding, take any  
19          action the Commission determines to be appropriate  
20          to remedy the violation.

21 **SEC. 208. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

22          (a) *IN GENERAL.*—A State, as *parens patriae*, may  
23          bring a civil action on behalf of its residents in an appro-  
24          priate district court of the United States to enforce the pro-  
25          visions of section 203 of this title, or to impose the civil

1 *penalties authorized by section 209 for violations of section*  
2 *203, whenever the attorney general of the State has reason*  
3 *to believe that the interests of the residents of the State have*  
4 *been or are being threatened or adversely affected by a sup-*  
5 *plier engaged in the sale or resale, at retail or wholesale,*  
6 *or distribution of crude oil, gasoline, or petroleum dis-*  
7 *tillates in violation of section 203 of this title.*

8       **(b) NOTICE.**—*The State shall serve written notice to*  
9 *the Commission of any civil action under subsection (a)*  
10 *prior to initiating the action. The notice shall include a*  
11 *copy of the complaint to be filed to initiate the civil action,*  
12 *except that if it is not feasible for the State to provide such*  
13 *prior notice, the State shall provide such notice imme-*  
14 *diately upon instituting the civil action.*

15       **(c) AUTHORITY TO INTERVENE.**—*Upon receiving the*  
16 *notice required by subsection (b), the Commission may in-*  
17 *tervene in the civil action and, upon intervening—*

18           **(1)** *may be heard on all matters arising in such*  
19 *civil action; and*

20           **(2)** *may file petitions for appeal of a decision in*  
21 *such civil action.*

22       **(d) CONSTRUCTION.**—*For purposes of bringing any*  
23 *civil action under subsection (a), nothing in this section*  
24 *shall prevent the attorney general of a State from exercising*  
25 *the powers conferred on the Attorney General by the laws*

1 *of such State to conduct investigations or to administer*  
2 *oaths or affirmations or to compel the attendance of wit-*  
3 *nesses or the production of documentary and other evidence.*

4 *(e) VENUE; SERVICE OF PROCESS.—In a civil action*  
5 *brought under subsection (a)—*

6 *(1) the venue shall be a judicial district in*  
7 *which—*

8 *(A) the defendant operates;*

9 *(B) the defendant was authorized to do*  
10 *business; or*

11 *(C) where the defendant in the civil action*  
12 *is found;*

13 *(2) process may be served without regard to the*  
14 *territorial limits of the district or of the State in*  
15 *which the civil action is instituted; and*

16 *(3) a person who participated with the defendant*  
17 *in an alleged violation that is being litigated in the*  
18 *civil action may be joined in the civil action without*  
19 *regard to the residence of the person.*

20 *(f) LIMITATION ON STATE ACTION WHILE FEDERAL*  
21 *ACTION IS PENDING.—If the Commission has instituted a*  
22 *civil action or an administrative action for violation of this*  
23 *title, a State attorney general, or official or agency of a*  
24 *State, may not bring an action under this section during*  
25 *the pendency of that action against any defendant named*

1 *in the complaint of the Commission or the other agency for*  
 2 *any violation of this title alleged in the Commission's civil*  
 3 *or administrative action.*

4 *(g) NO PREEMPTION.—Nothing contained in this sec-*  
 5 *tion shall prohibit an authorized State official from pro-*  
 6 *ceeding in State court to enforce a civil or criminal statute*  
 7 *of that State.*

8 **SEC. 209. PENALTIES.**

9 *(a) CIVIL PENALTY.—*

10 *(1) IN GENERAL.—In addition to any penalty*  
 11 *applicable under the Federal Trade Commission Act,*  
 12 *any supplier—*

13 *(A) that violates section 204 or section 205*  
 14 *of this title is punishable by a civil penalty of*  
 15 *not more than \$1,000,000; and*

16 *(B) that violates section 203 of this title is*  
 17 *punishable by a civil penalty of—*

18 *(i) not more than \$500,000, in the case*  
 19 *of an independent small business marketer*  
 20 *of gasoline (within the meaning of section*  
 21 *324(c) of the Clean Air Act (42 U.S.C.*  
 22 *7625(c))); and*

23 *(ii) not more than \$5,000,000 in the*  
 24 *case of any other supplier.*

1           (2) *METHOD OF ASSESSMENT.*—*The penalties*  
2           *provided by paragraph (1) shall be assessed in the*  
3           *same manner as civil penalties imposed under section*  
4           *5 of the Federal Trade Commission Act (15 U.S.C.*  
5           *45).*

6           (3) *MULTIPLE OFFENSES; MITIGATING FAC-*  
7           *TORS.*—*In assessing the penalty provided by sub-*  
8           *section (a)—*

9                   (A) *each day of a continuing violation shall*  
10                  *be considered a separate violation; and*

11                   (B) *the Commission shall take into consid-*  
12                  *eration the seriousness of the violation and the*  
13                  *efforts of the person committing the violation to*  
14                  *remedy the harm caused by the violation in a*  
15                  *timely manner.*

16           (b) *CRIMINAL PENALTY.*—*Violation of section 203 of*  
17           *this title is punishable by a fine of not more than*  
18           *\$5,000,000, imprisonment for not more than 5 years, or*  
19           *both.*

20   **SEC. 210. EFFECT ON OTHER LAWS.**

21           (a) *OTHER AUTHORITY OF THE COMMISSION.*—*Noth-*  
22           *ing in this title shall be construed to limit or affect in any*  
23           *way the Commission's authority to bring enforcement ac-*  
24           *tions or take any other measure under the Federal Trade*

1 *Commission Act (15 U.S.C. 41 et seq.) or any other provi-*  
2 *sion of law.*

3 (b) *STATE LAW.—Nothing in this title preempts any*  
4 *State law.*

**Calendar No. 630**

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 357**

[Report No. 110-278]

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## **A BILL**

To improve passenger automobile fuel economy and safety, reduce greenhouse gas emissions, reduce dependence on foreign oil, and for other purposes.

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APRIL 7, 2008

Reported with an amendment