To repeal certain amendments to the Clean Air Act relating to the expansion of the renewable fuel program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 2011

Mr. BURGESS introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To repeal certain amendments to the Clean Air Act relating to the expansion of the renewable fuel program, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Leave Ethanol Volumes at Existing Levels Act” or the “LEVEL Act”.

SEC. 2. REPEAL OF EXPANSION OF RENEWABLE FUEL PROGRAM.

(a) DEFINITIONS.—Section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)) is amended to read as follows:
“(1) DEFINITIONS.—In this section:

“(A) CELLULOSIC BIOMASS ETHANOL.—
The term ‘cellulosic biomass ethanol’ means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

“(i) dedicated energy crops and trees;
“(ii) wood and wood residues;
“(iii) plants;
“(iv) grasses;
“(v) agricultural residues;
“(vi) fibers;
“(vii) animal wastes and other waste materials; and
“(viii) municipal solid waste.

The term also includes any ethanol produced in facilities where animal wastes or other waste materials are digested or otherwise used to displace 90 percent or more of the fossil fuel normally used in the production of ethanol.

“(B) WASTE DERIVED ETHANOL.—The term ‘waste derived ethanol’ means ethanol derived from—
“(i) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

“(ii) municipal solid waste.

“(C) RENEWABLE FUEL.—

“(i) In general.—The term ‘renewable fuel’ means motor vehicle fuel that—

“(I)(aa) is produced from grain, starch, oilseeds, vegetable, animal, or fish materials including fats, greases, and oils, sugarcane, sugar beets, sugar components, tobacco, potatoes, or other biomass; or

“(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

“(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

“(ii) Inclusion.—The term renewable fuel includes—
“(I) cellulosic biomass ethanol and waste derived ethanol; and

“(II) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))) and any blending components derived from renewable fuel (provided that only the renewable fuel portion of any such blending component shall be considered part of the applicable volume under the renewable fuel program established by this subsection).

“(D) SMALL REFINERY.—The term ‘small refinery’ means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.”.

(b) RENEWABLE FUEL PROGRAM.—Paragraph (2) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(2)) is amended as follows:

(1) REGULATIONS.—Clause (i) of subparagraph (A) is amended by striking the last sentence.
(2) APPLICABLE VOLUMES OF RENEWABLE FUEL.—Subparagraph (B) is amended to read as follows:

“(B) APPLICABLE VOLUME.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following table:

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<table>
<thead>
<tr>
<th>Calendar year</th>
<th>Applicable volume of renewable fuel (in billions of gallons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>4.0</td>
</tr>
<tr>
<td>2007</td>
<td>4.7</td>
</tr>
<tr>
<td>2008</td>
<td>5.4</td>
</tr>
<tr>
<td>2009</td>
<td>6.1</td>
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</tr>
<tr>
<td>2011</td>
<td>7.4</td>
</tr>
<tr>
<td>2012</td>
<td>7.5&quot;</td>
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(e) APPLICABLE PERCENTAGES.—Paragraph (3) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(3)) is amended as follows:

(1) In subparagraph (A), by striking “2021” and inserting “2011”.

(2) In subparagraph (A), by striking “transportation fuel, biomass-based diesel, and cellulosic biofuel” and inserting “gasoline”.

(3) In subparagraph (B), by striking “2021” and inserting “2012” in clause (i).

(4) In subparagraph (B), by striking “transportation fuel” and inserting “gasoline” in clause (ii)(II).

(d) CELLULOSIC BIOMASS ETHANOL OR WASTE DERIVED ETHANOL.—Paragraph (4) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(4)) is amended to read as follows:

“(4) CELLULOSIC BIOMASS ETHANOL OR WASTE DERIVED ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol or waste derived ethanol shall be considered to be the equivalent of 2.5 gallons of renewable fuel.”.

(e) CREDIT PROGRAM.—Paragraph (5) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(5)) is amended by striking subparagraph (E).

(f) WAIVERS.—

(1) IN GENERAL.—Paragraph (7) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(7)) is amended—

(A) in subparagraph (A), by striking “, by any person subject to the requirements of this subsection, or by the Administrator on his own motion”; and
(B) by inserting “State” before “petition for a waiver” in subparagraph (B).

(2) CELLULOSIC BIOFUEL.—Paragraph (7) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(7)) is amended by striking subparagraph (D).

(3) BIOMASS-BASED DIESEL.—Paragraph (7) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(7)) is amended by striking subparagraphs (E) and (F).

(g) PERIODIC REVIEWS.—Section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is amended by striking paragraph (11).

(h) SAVINGS CLAUSE.—Section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is amended by striking paragraph (12).

(i) REGULATIONS.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by striking paragraph (2) of subsection (v).

(j) OTHER PROVISIONS.—

(1) ENVIRONMENTAL AND RESOURCE CONSERVATION IMPACTS.—Section 204(b) of the Energy Independence and Security Act of 2007 (Public Law 110–140) is repealed.
(2) EFFECTIVE DATE, SAVINGS PROVISION, AND TRANSITION RULES.—Section 210 of the Energy Independence and Security Act of 2007 (Public Law 110–140) is repealed.

SEC. 3. HIGHER ETHANOL BLENDS.

(a) PROHIBITION OF AUTHORIZATION OF HIGHER ETHANOL BLENDS.—Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency may not permit or authorize (including by granting a waiver through the fuels and fuel additives waiver process under section 211(f)(4) of the Clean Air Act (42 U.S.C. 7545(f)(4)) the introduction into commerce of an ethanol-gasoline blend containing greater than 10 percent ethanol by volume that is intended for general use in conventional gasoline-powered onroad or nonroad vehicles or engines.

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct, and submit to Congress the results of, a comprehensive study on—

(1) the effects of the introduction into commerce of an ethanol-gasoline blend described in subsection (a) on consumer products, including—

(A) onroad and nonroad vehicles;
(B) nonroad engines (such as lawn mowers); and

(C) any other applicable gasoline-powered vehicles, engines, and devices;

(2) the impact of an ethanol-gasoline blend described in subsection (a) on—

(A) engine performance of conventional gasoline-powered onroad and nonroad vehicles and nonroad engines;

(B) emissions from the use of the blend; and

(C) materials compatibility and consumer safety issues associated with the use of such blend (including the identification of insufficient data or information for some or all of such vehicles and engines with respect to each of the issues described in this subparagraph and subparagraphs (A) and (B)); and

(3) the ability of wholesale and retail gasoline distribution infrastructure, including bulk storage, retail storage configurations, and retail equipment (including certification of equipment compatibility by independent organizations), to introduce such an ethanol-gasoline blend into commerce without wide-
spread intentional or unintentional misfueling by consumers.