

105TH CONGRESS
1ST SESSION

S. 1141

To amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 2, 1997

Mr. JOHNSON (for himself, Mr. CRAIG, Mr. WELLSTONE, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, 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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Biodiesel Energy Development Act of 1997”.

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

Sec. 1. Short title; table of contents.

TITLE I—ALTERNATIVE FUELS—GENERAL

Sec. 101. Definitions.

Sec. 102. Amendments to the Energy Policy and Conservation Act.

Sec. 103. Minimum Federal fleet requirement.

TITLE II—ALTERNATIVE FUELS—NON-FEDERAL PROGRAMS

Sec. 201. State and local incentives programs.

Sec. 202. Alternative fuel bus program.

Sec. 203. Alternative fuel use in nonroad vehicles, engines, and marine vessels.

TITLE III—AVAILABILITY AND USE OF REPLACEMENT FUELS, ALTERNATIVE FUELS, AND ALTERNATIVE FUELED VEHICLES

Sec. 301. Mandate for alternative fuel providers.

Sec. 302. Replacement fuel supply and demand program.

Sec. 303. Modification of goals; additional rulemaking authority.

Sec. 304. Fleet requirement program.

Sec. 305. Credits.

Sec. 306. Secretary's recommendation to Congress.

1 **TITLE I—ALTERNATIVE FUELS—** 2 **GENERAL**

3 **SEC. 101. DEFINITIONS.**

4 Section 301 of the Energy Policy Act of 1992 (42
5 U.S.C. 13211) is amended—

6 (1) in paragraph (2), by striking “derived from
7 biological materials” and inserting “derived from do-
8 mestically produced renewable biological materials
9 (including biodiesel) at mixtures not less than 20
10 percent by volume”;

11 (2) in paragraph (8), by striking subparagraph
12 (B) and inserting the following:

13 “(B) a motor vehicle (other than an auto-
14 mobile) or marine vessel that is capable of oper-
15 ating on alternative fuel, gasoline, or diesel fuel,

1 or an approved blend of alternative fuel and pe-
 2 troleum-based fuel.”;

3 (3) by redesignating paragraphs (11) through
 4 (14) as paragraphs (12), (14), (15), and (16), re-
 5 spectively;

6 (4) by inserting after paragraph (10) the fol-
 7 lowing:

8 “(11) the term ‘heavy duty motor vehicle’
 9 means a motor vehicle or marine vessel that is great-
 10 er than 8,500 pounds gross vehicle weight rating;”;

11 (5) by inserting after paragraph (12) (as redes-
 12 ignated by paragraph (3)) the following:

13 “(13) the term ‘marine vessel’ means a motor-
 14 ized watercraft or other artificial contrivance used as
 15 a means of transportation primarily on the navigable
 16 waters of the United States;”;

17 (6) in paragraph (15) (as redesignated by para-
 18 graph (3)), by striking “biological materials” and in-
 19 serting “domestically produced renewable biological
 20 materials (including biodiesel)”.

21 **SEC. 102. AMENDMENTS TO THE ENERGY POLICY AND CON-**
 22 **SERVATION ACT.**

23 Section 400AA of the Energy Policy and Conserva-
 24 tion Act (42 U.S.C. 6374) is amended—

(1) in the second sentence of subsection (a)(3)(B), by striking “vehicles converted to use alternative fuels may be acquired if, after conversion,” and inserting “existing fleet vehicles may be converted to use alternative fuels at the time of a major vehicle overhaul or rebuild, or vehicles that have been converted to use alternative fuels may be acquired, if”; and

(2) in subsection (g)—

(A) in paragraph (2), by striking “derived from biological materials” and inserting “derived from domestically produced renewable biological materials (including biodiesel) at mixtures not less than 20 percent by volume”;

(B) in paragraph (5), by striking subparagraph (B) and inserting the following:

“(B) a motor vehicle (other than an automobile) or marine vessel that is capable of operating on alternative fuel, gasoline, or diesel fuel, or an approved blend of alternative fuel and petroleum-based fuel; and”; and

(C) in paragraph (6), by inserting “or marine vessel” **[Same questions as above.]** after “a vehicle”.

1 **SEC. 103. MINIMUM FEDERAL FLEET REQUIREMENT.**

2 Section 303 of the Energy Policy Act of 1992 (42
3 U.S.C. 13212) is amended—

4 (1) by redesignating subsections (c) through (f)
5 as subsections (d) through (g), respectively; and

6 (2) by inserting after subsection (b) the follow-
7 ing:

8 “(c) HEAVY DUTY AND DUAL-FUELED VEHICLE
9 COMPLIANCE CREDITS.—

10 “(1) IN GENERAL.—For purposes of meeting
11 the requirements of this section, the Secretary, in
12 consultation with the Administrator of General Serv-
13 ices, if appropriate, shall permit a Federal fleet to
14 acquire 1 heavy duty alternative fueled vehicle in
15 place of 2 light duty alternative fueled vehicles.

16 “(2) ADDITIONAL CREDITS.—For purposes of
17 this section, the Secretary, in consultation with the
18 Administrator of General Services, if appropriate,
19 shall permit a Federal fleet to take an additional
20 credit for the purchase and documented use of alter-
21 native fuel used in a dual-fueled vehicle, comparable
22 conventionally-fueled motor vehicle, or marine vessel.

23 “(3) ACCOUNTING.—

24 “(A) IN GENERAL.—In allowing a credit
25 for the purchase of a dual-fueled vehicle or al-
26 ternative fuel, the Secretary may request a Fed-

1 eral agency to provide an accounting of the pur-
2 chase.

3 “(B) GUIDELINES.—The Secretary shall
4 include any request made under subparagraph
5 (A) in the guidelines required under section
6 308.

7 “(4) FUEL AND VEHICLE NEUTRALITY.—The
8 Secretary shall carry out this subsection in a man-
9 ner that is, to the maximum extent practicable, neu-
10 tral with respect to the type of fuel and vehicle
11 used.”.

12 **TITLE II—ALTERNATIVE**
13 **FUELS—NON-FEDERAL**
14 **PROGRAMS**

15 **SEC. 201. STATE AND LOCAL INCENTIVES PROGRAMS.**

16 (a) ESTABLISHMENT OF PROGRAM.—Section 409(a)
17 of the Energy Policy Act of 1992 (42 U.S.C. 13235(a))
18 is amended—

19 (1) in paragraph (2)(A), by striking “alter-
20 native fueled vehicles” and inserting “light and
21 heavy duty alternative fueled vehicles and increasing
22 the use of alternative fuels”; and

23 (2) in paragraph (3)—

1 (A) in subparagraph (B), by inserting after
 2 “introduction of” the following: “converted or
 3 acquired light and heavy duty”;

4 (B) in subparagraph (E), by inserting
 5 after “of sales of” the following: “, incentives
 6 toward use of, and reporting requirements re-
 7 lating to”; and

8 (C) in subparagraph (G)—

9 (i) by redesignating clauses (i)
 10 through (iii) as clauses (ii) through (iv),
 11 respectively; and

12 (ii) by inserting after “cost of—” the
 13 following:

14 “(i) alternative fuels;”.

15 (b) FEDERAL ASSISTANCE TO STATES.—Section
 16 409(b) of the Energy Policy Act of 1992 (42 U.S.C.
 17 13235(b)) is amended—

18 (1) in paragraph (1)—

19 (A) in subparagraph (B), by striking
 20 “and” at the end;

21 (B) in subparagraph (C), by striking the
 22 period at the end and inserting “; and”; and

23 (C) by adding at the end the following:

24 “(D) grants of Federal financial assistance for
 25 the incremental purchase cost of alternative fuels.”;

1 (2) in paragraph (2)(B), by inserting after “be
2 introduced” the following: “and the volume of alter-
3 native fuel likely to be consumed”; and

4 (3) in paragraph (3)—

5 (A) by inserting “alternative fuels and”
6 after “in procuring”; and

7 (B) by inserting “fuels and” after “of
8 such”.

9 (c) GENERAL PROVISIONS.—Section 409(c)(2)(A) of
10 the Energy Policy Act of 1992 (42 U.S.C.
11 13235(c)(2)(A)) is amended by inserting after “alter-
12 native fueled vehicles in use” the following: “and volume
13 of alternative fuel consumed”.

14 **SEC. 202. ALTERNATIVE FUEL BUS PROGRAM.**

15 Section 410(c) of the Energy Policy Act of 1992 (42
16 U.S.C. 13236(c)) is amended in the second sentence by
17 striking “and the conversion of school buses to dedicated
18 vehicles” and inserting “the incremental cost of alter-
19 native fuels used in flexible fueled school buses, and the
20 conversion of school buses to alternative fueled vehicles”.

21 **SEC. 203. ALTERNATIVE FUEL USE IN NONROAD VEHICLES,**
22 **ENGINES, AND MARINE VESSELS.**

23 Section 412 of the Energy Policy Act of 1992 (42
24 U.S.C. 13238) is amended—

1 (1) in the section heading, by striking “**AND**
 2 **ENGINES**” and inserting “**, ENGINES, AND MA-**
 3 **RINE VESSELS**”;

4 (2) by striking “vehicles and engines” each
 5 place it appears in subsections (a) and (b) and in-
 6 serting “vehicles, engines, and marine vessels”;

7 (3) in subsection (a)—

8 (A) in the subsection heading, by striking
 9 “NONROAD VEHICLES AND ENGINES” and in-
 10 serting “IN GENERAL”;

11 (B) in paragraph (1)—

12 (i) in the first sentence, by striking “a
 13 study” and inserting “studies”; and

14 (ii) in the second sentence—

15 (I) by striking “study” and in-
 16 serting “studies”; and

17 (II) by striking “2 years” and in-
 18 serting “2, 6, and 10 years”;

19 (C) in paragraph (2)—

20 (i) by striking “study” each place it
 21 appears and inserting “studies”; and

22 (ii) in the second sentence, by insert-
 23 ing “or marine vessels” after “such vehi-
 24 cles”; and

25 (D) in paragraph (3)—

1 (i) by striking “report” and inserting
 2 “reports”; and

3 (ii) by striking “may” and inserting
 4 “shall”; and

5 (4) in subsection (b)—

6 (A) in the subsection heading, by striking
 7 “AND ENGINES” and inserting “, ENGINES,
 8 AND MARINE VESSELS”; and

9 (B) by striking “rail transportation, vehi-
 10 cles used at airports, vehicles or engines used
 11 for marine purposes, and other vehicles or en-
 12 gines” and inserting “rail and waterway trans-
 13 portation, vehicles used at airports and sea-
 14 ports, vehicles or engines used for marine pur-
 15 poses, marine vessels, and other vehicles, en-
 16 gines, or marine vessels”.

17 **TITLE III—AVAILABILITY AND**
 18 **USE OF REPLACEMENT**
 19 **FUELS, ALTERNATIVE FUELS,**
 20 **AND ALTERNATIVE FUELED**
 21 **VEHICLES**

22 **SEC. 301. MANDATE FOR ALTERNATIVE FUEL PROVIDERS.**

23 Section 501 of the Energy Policy Act of 1992 (42
 24 U.S.C. 13251) is amended—

1 (1) in subsection (a)(1), by inserting “or
2 heavy” after “new light”; and

3 (2) in subsection (b)—

4 (A) in paragraph (1), by striking “and” at
5 the end;

6 (B) in paragraph (2), by striking the pe-
7 riod at the end and inserting “; and”; and

8 (C) by adding at the end the following:

9 “(3) allow the conversion of an existing fleet ve-
10 hicle into a dual-fueled alternative fueled vehicle at
11 the time of a major overhaul or rebuild of the vehi-
12 cle, if the original equipment manufacturer’s war-
13 ranty continues to apply to the vehicle, pursuant to
14 an agreement between the original equipment manu-
15 facturer and the person performing the conversion.”.

16 **SEC. 302. REPLACEMENT FUEL SUPPLY AND DEMAND PRO-**
17 **GRAM.**

18 Section 502 of the Energy Policy Act of 1992 (42
19 U.S.C. 13252) is amended—

20 (1) in the first sentence of subsection (a), by in-
21 serting “and heavy” after “in light”; and

22 (2) in the first sentence of subsection (b), by in-
23 serting after “October 1, 1993,” the following: “and
24 every 5 years thereafter through October 1, 2008,”.

1 **SEC. 303. MODIFICATION OF GOALS; ADDITIONAL RULE-**
2 **MAKING AUTHORITY.**

3 Section 504 of the Energy Policy Act of 1992 (42
4 U.S.C. 13254) is amended—

5 (1) in the first sentence of subsection (a), by
6 striking “and periodically thereafter” and inserting
7 “consistent with the reporting requirements of sec-
8 tion 502(b)”;

9 (2) in subsection (c), by inserting after the first
10 sentence the following: “Any additional regulation is-
11 sued by the Secretary shall be, to the maximum ex-
12 tent practicable, neutral with respect to the type of
13 fuel and vehicle used.”.

14 **SEC. 304. FLEET REQUIREMENT PROGRAM.**

15 (a) **FLEET PROGRAM PURCHASE GOALS.**—Section
16 507(a)(1) of the Energy Policy Act of 1992 (42 U.S.C.
17 13257(a)(1)) is amended by inserting “acquired as, or
18 converted into,” after “shall be”.

19 (b) **FLEET REQUIREMENT PROGRAM.**—Section
20 507(g) of the Energy Policy Act of 1992 (42 U.S.C.
21 13257(g)) is amended—

22 (1) in paragraph (1), by inserting “acquired as,
23 or converted into,” after “shall be”;

24 (2) by redesignating paragraph (4) as para-
25 graph (5); and

1 (3) by inserting after paragraph (3) the follow-
2 ing:

3 “(4) SUBSTITUTIONS.—The Secretary shall, by
4 rule, permit fleets covered under this section to sub-
5 stitute the acquisition or conversion of 1 heavy duty
6 alternative fueled vehicle for 2 light duty vehicle ac-
7 quisitions to meet the requirements of this sub-
8 section.”.

9 (c) CONVERSIONS.—Section 507(j) of the Energy
10 Policy Act of 1992 (42 U.S.C. 13257(j)) is amended—

11 (1) by striking “Nothing in” and inserting the
12 following:

13 “(1) IN GENERAL.—Subject to paragraph (2),
14 nothing in”; and

15 (2) by adding at the end the following:

16 “(2) CONVERSION INTO ALTERNATIVE FUELED
17 VEHICLES.—

18 “(A) IN GENERAL.—A fleet owner shall be
19 permitted to convert an existing fleet vehicle
20 into an alternative fueled vehicle, and purchase
21 the alternative fuel for the converted vehicle, for
22 the purpose of compliance with this title or an
23 amendment made by this title, if the original
24 equipment manufacturer’s warranty continues
25 to apply to the vehicle, pursuant to an agree-

1 ment between the original equipment manufac-
2 turer and the person performing the conversion.

3 “(B) CREDITS.—A fleet owner shall be al-
4 lowed a credit for the conversion of an existing
5 fleet vehicle and the purchase of alternative fuel
6 for the vehicle.”.

7 (d) MANDATORY STATE FLEET PROGRAMS.—Section
8 507(o) of the Energy Policy Act of 1992 (42 U.S.C.
9 13257(o)) is amended—

10 (1) in paragraph (1)—

11 (A) by inserting “or heavy” after “new
12 light”; and

13 (B) by inserting “or converted” after “ac-
14 quired”; and

15 (2) in the first sentence of paragraph (2)(A)—

16 (A) by striking “this Act” and inserting
17 “the Biodiesel Energy Development Act of
18 1997”; and

19 (B) by inserting after “of light” the follow-
20 ing: “or heavy duty alternative fueled”.

21 **SEC. 305. CREDITS.**

22 (a) IN GENERAL.—Section 508(a) of the Energy Pol-
23 icy Act of 1992 (42 U.S.C. 13258(a)) is amended—

24 (1) by striking “The Secretary” and inserting
25 the following:

1 “(1) ADDITIONAL ALTERNATIVE FUELED VEHI-
2 CLES.—The Secretary”; and

3 (2) by adding at the end the following:

4 “(2) ALTERNATIVE FUEL.—The Secretary shall
5 allocate a credit to a fleet or covered person that ac-
6 quires a volume of alternative fuel equal to the esti-
7 mated need for 1 year for any dual-fueled vehicle ac-
8 quired or converted by the fleet or covered person as
9 required under this title.”.

10 (b) ALLOCATION.—Section 508(b) of the Energy Pol-
11 icy Act of 1992 (42 U.S.C. 13258(b)) is amended—

12 (1) by striking “In allocating credits under sub-
13 section (a),” and inserting the following:

14 “(1) ADDITIONAL ALTERNATIVE FUELED VEHI-
15 CLES.—In allocating credits under subsection
16 (a)(1),”; and

17 (2) by adding at the end the following:

18 “(2) DUAL-FUELED VEHICLES; ALTERNATIVE
19 FUEL.—In allocating credits under subsection
20 (a)(2), the Secretary shall allocate 2 credits to a
21 fleet or covered person for acquiring or converting a
22 dual-fueled vehicle and acquiring a volume of alter-
23 native fuel equal to the estimated need for 1 year for
24 any dual-fueled vehicle if the dual-fueled vehicle ac-
25 quired is in excess of the number that the fleet or

1 covered person is required to acquire or is acquired
 2 before the date that the fleet or covered person is re-
 3 quired to acquire the number under this title.”.

4 **SEC. 306. SECRETARY’S RECOMMENDATION TO CONGRESS.**

5 Section 509(a) of the Energy Policy Act of 1992 (42
 6 U.S.C. 13259(a)) is amended—

7 (1) in paragraph (1), by inserting before the
 8 semicolon at the end the following: “and exempting
 9 replacement fuels from taxes levied on non-replace-
 10 ment fuels”; and

11 (2) in paragraph (2)—

12 (A) by inserting “and converters” after
 13 “suppliers”; and

14 (B) by inserting before the semicolon the
 15 following: “, including the conversion and war-
 16 ranty of motor vehicles into alternative fueled
 17 vehicles”.

○