

108TH CONGRESS
1ST SESSION

H. R. 1221

To provide for the stabilization of prices for gasoline, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2003

Mr. DEFAZIO (for himself, Ms. KAPTUR, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on International Relations, Ways and Means, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the stabilization of prices for gasoline, 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.**

4 This Act may be cited as the “Gasoline Price Sta-
5 bilization Act of 2003”.

6 **SEC. 2. AUTHORIZATION FOR PRICE STABILIZATION.**

7 (a) **PRESIDENTIAL AUTHORITY.**—The President is
8 authorized to issue such orders and regulations as he may
9 deem appropriate, including price caps, to stabilize prices

1 for wholesale and retail gasoline to levels at or below levels
2 prevailing on March 1, 2002.

3 (b) PENALTY.—Whoever willfully violates any order
4 or regulation issued under this section shall be fined
5 \$1,000,000 per violation.

6 (c) INJUNCTIONS.—Whenever it appears to any agen-
7 cy of the United States, authorized by the President to
8 exercise the authority contained in this subsection to en-
9 force orders and regulations issued under this section, that
10 any person has engaged, is engaged, or is about to engage
11 in any acts or practices constituting a violation of any reg-
12 ulation or order under this section, it may in its discretion
13 bring an action, in the proper district court of the United
14 States or the proper United States court of any territory
15 or other place subject to the jurisdiction of the United
16 States, to enjoin such acts or practices, and upon a proper
17 showing a permanent or temporary injunction or restrain-
18 ing order shall be granted without bond. Upon application
19 of the agency, any such court may also issue mandatory
20 injunctions commanding any person to comply with any
21 regulation or order under this section.

22 (d) EXPIRATION.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), this section shall cease to have effect 1
25 year after the date of the enactment of this Act.

1 (2) EXCEPTION.—Paragraph (1) shall not af-
2 fect enforcement relating to a violation of this sec-
3 tion occurring before the expiration date in para-
4 graph (1).

5 **SEC. 3. STRATEGIC PETROLEUM RESERVE DRAWDOWN.**

6 (a) DRAWDOWNS AUTHORIZED TO ADDRESS STATE
7 OR REGIONAL ECONOMIC HARM.—Section 161(d)(2)(C)
8 of the Energy Policy and Conservation Act (42 U.S.C.
9 6241(d)(2)(C)) is amended by inserting “, or on a State
10 or regional economy” after “national economy”.

11 (b) DRAWDOWNS AUTHORIZED TO COMBAT ANTI-
12 COMPETITIVE CONDUCT.—Section 161(d) of the Energy
13 Policy and Conservation Act (42 U.S.C. 6241(d)) is fur-
14 ther amended by adding at the end the following new para-
15 graph:

16 “(3) REDUCTION IN SUPPLY CAUSED BY ANTI-
17 COMPETITIVE CONDUCT.—

18 “(A) IN GENERAL.—For the purposes of this
19 section, in addition to the circumstances set forth in
20 section 3(8) and in paragraph (2) of this subsection,
21 a severe energy supply interruption shall be deemed
22 to exist if the President determines that—

23 “(i) there is a significant reduction in sup-
24 ply that—

1 “(I) is of significant scope and dura-
2 tion; and

3 “(II) has caused a significant increase
4 in the price of petroleum products;

5 “(ii) the increase in price is likely to cause
6 a significant adverse impact on the national
7 economy, or on a State or regional economy;
8 and

9 “(iii) a substantial cause of the reduction
10 in supply is the anticompetitive conduct of—

11 “(I) 1 or more foreign countries or
12 international entities; or

13 “(II) 1 or more producers, refiners, or
14 marketers of petroleum products.

15 “(B) DEPOSIT AND USE OF PROCEEDS.—Pro-
16 ceeds from the sale of petroleum drawn down pursu-
17 ant to a Presidential determination under subpara-
18 graph (A) shall—

19 “(i) be deposited in the SPR Petroleum
20 Account; and

21 “(ii) be used only for the purposes speci-
22 fied in section 167.”.

23 (c) REPORTING AND CONSULTATION REQUIRE-
24 MENTS.—When the price of a barrel of crude oil exceeds
25 \$25 (in constant 2003 United States dollars) on the New

1 York Mercantile Exchange for a period greater than 14
2 days, the President, through the Secretary of Energy,
3 shall, not later than 30 days after the end of the 14-day
4 period, submit to the Committee on Energy and Natural
5 Resources of the Senate and the Committee on Energy
6 and Commerce of the House of Representatives a report
7 that—

8 (1) states the results of a comprehensive review
9 of the causes and potential consequences of the price
10 increase;

11 (2) provides an estimate of the likely duration
12 of the price increase, based on analyses and fore-
13 casts of the Energy Information Administration;

14 (3) provides an analysis of the effects of the
15 price increase on the cost of gasoline at the whole-
16 sale and retail levels; and

17 (4) states whether, and provides a specific ra-
18 tionale for why, the President does or does not sup-
19 port the drawdown and distribution of a specified
20 amount of oil from the Strategic Petroleum Reserve.

21 (d) GENERAL ACCOUNTING OFFICE STUDY.—The
22 Comptroller General of the United States shall, not later
23 than 1 year after the date of the enactment of this Act,
24 transmit to the Congress a review of the drawdown au-

1 thority of the President with respect to the Strategic Pe-
2 troleum Reserve, addressing—

3 (1) how and why the authority has changed
4 over time;

5 (2) under what circumstances Presidents have
6 actually exercised the authority;

7 (3) what the impact on oil prices was as a re-
8 sult of the exercising of the presidential authority;
9 and

10 (4) the implications of expanding the drawdown
11 authority beyond the “severe energy supply interrup-
12 tion” standard, and instead allowing the release of
13 oil as a regular hedging tool for oil companies, in
14 which such companies could tap the Strategic Petro-
15 leum Reserve as necessary to dampen price shocks,
16 but would be required to replace the oil, along with
17 additional barrels, at some predetermined time in
18 the future.

19 **SEC. 4. MINIMUM INVENTORY LEVELS.**

20 (a) ESTABLISHING MINIMUM LEVELS.—The Sec-
21 retary of Energy shall establish minimum inventory levels
22 that producers, refiners, and marketers of crude oil and
23 petroleum products must maintain in order to limit the
24 impact unexpected supply disruptions have on prices at
25 the wholesale and retail level.

1 (b) DIFFERENT INDUSTRY SEGMENTS.—For the
2 purposes of setting the minimum inventory levels, the Sec-
3 retary may set varying levels for each segment of the oil
4 industry as he determines appropriate.

5 (c) DIFFERENT PRODUCTS.—For the purposes of
6 setting the minimum inventory levels, the Secretary may
7 set different levels for the various crude oil and petroleum
8 products, including gasoline, home heating oil, and jet
9 fuel.

10 (d) SEASONAL ADJUSTMENT.—The Secretary may
11 propose to adjust minimum inventory levels to reflect sea-
12 sonal adjustments.

13 (e) REGIONAL VARIATIONS.—The minimum inven-
14 tory levels set by the Secretary shall take into account re-
15 gional variations in supply and demand, and market struc-
16 ture.

17 **SEC. 5. BAN ON EXPORTING OF ALASKAN OIL.**

18 (a) REPEAL OF PROVISION AUTHORIZING EX-
19 PORTS.—Subsection (s) of section 28 of the Mineral Leas-
20 ing Act (30 U.S.C. 185(s)) is repealed.

21 (b) REIMPOSITION OF PROHIBITION ON EXPORTS.—
22 Subsection (d) of Section 7 of the Export Administration
23 Act of 1979 (50 U.S.C. App. 2406(d)) shall be effective
24 as of the date of the enactment of this Act, and those
25 provisions of the Export Administration Act of 1979 (in-

1 cluding sections 11 and 12) shall apply to the extent nec-
2 essary to carry out such section 7(d), notwithstanding sec-
3 tion 20 of that Act and notwithstanding any other provi-
4 sion of law that would otherwise allow the export of oil
5 to which such section 7(d) applies.

6 **SEC. 6. SENSE OF CONGRESS REGARDING OPEC AND THE**
7 **WTO.**

8 (a) FINDINGS.—The Congress makes the following
9 findings:

10 (1) No free market exists in oil production be-
11 cause of collusion among large oil-producing coun-
12 tries.

13 (2) The Organization of the Petroleum Export-
14 ing Countries (OPEC) and other oil-producing coun-
15 tries have repeatedly agreed to coordinated cutbacks
16 in production, thus manipulating world oil markets,
17 resulting in de facto price fixing.

18 (3) This manipulation led to the highest price
19 per barrel of oil in nearly a decade, substantial in-
20 creases in consumer prices for items such as home
21 heating oil and gasoline, and continued price vola-
22 tility.

23 (4) Rising oil prices greatly harm consumers,
24 farmers, small businesses, and manufacturers, in-
25 crease the likelihood of inflation, increase the cost of

1 conducting interstate and international commerce,
2 and pose a strong threat to continued economic
3 growth.

4 (5) Article XI of the General Agreement on
5 Tariffs and Trade (GATT 1994) prohibits members
6 of the World Trade Organization (WTO) from set-
7 ting quantitative restrictions on the import or export
8 of resources or products across their borders; specifi-
9 cally the language reads: “No prohibitions or restric-
10 tions other than duties, taxes or other charges,
11 whether made effective through quotas, import or
12 export licenses or other measures, shall be instituted
13 or maintained by any contracting party on the im-
14 portation of any product of the territory of any
15 other contracting party or on the exportation or sale
16 for export of any product destined for the territory
17 of any other contracting party.”.

18 (6) The precise meaning of this provision was
19 spelled out in a GATT Panel Report issued in 1988
20 entitled “Japan—Trade in Semi-conductors”, which
21 noted, “. . . this wording [in article XI] was com-
22 prehensive: it applied to all measures instituted or
23 maintained by a contracting party prohibiting or re-
24 stricting the importation, exportation or sale for ex-
25 port of products other than measures that take the

1 form of duties, taxes, or other charges. . . . This
2 wording indicated clearly that any measure insti-
3 tuted or maintained by a contracting party which re-
4 stricted the exportation or sale for export of prod-
5 ucts was covered by this provision, irrespective of
6 the legal status of the measure.”.

7 (7) Oil production restrictions clearly qualify as
8 a “quantitative restriction” based on the original
9 WTO rules and the 1988 GATT panel report, which
10 certify that only “duties, taxes or other charges” are
11 allowable, not pacts among countries to limit produc-
12 tion of a product for export.

13 (8) Article XX of GATT 1994, which sets out
14 a series of exceptions to article XI, notes that none
15 of the exceptions are valid if they are “applied in a
16 manner which would constitute . . . a disguised re-
17 striction on international trade”, a phrase which de-
18 scribes OPEC’s production restrictions.

19 (9) Of the 11 OPEC countries, 6 are members
20 of the WTO (Kuwait, Indonesia, Nigeria, Qatar,
21 Venezuela, and United Arab Emirates), 2 have ob-
22 server status and have applied to join the WTO
23 (Saudi Arabia and Algeria), and only 3 have no rela-
24 tionship with the WTO (Libya, Iran, and Iraq).

1 (10) Of the remaining large oil-producing coun-
2 tries, Mexico and Norway are members of the WTO,
3 and Russia and Oman have applied for membership.

4 (11) Given the substantial WTO membership
5 and pending membership of oil-producing countries,
6 filing a complaint would likely have an immediate
7 impact on the current and future behavior of these
8 countries.

9 (b) SENSE OF CONGRESS.—The Congress strongly
10 urges the President to instruct the United States Rep-
11 resentative to the World Trade Organization to file a com-
12 plaint in the World Trade Organization against oil-pro-
13 ducing countries for violating their obligations under the
14 rules of that organization.

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