

108TH CONGRESS  
1ST SESSION

# S. 795

To amend the Internal Revenue Code of 1986 to provide additional tax incentives for enhancing motor vehicle fuel efficiency, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 7, 2003

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide additional tax incentives for enhancing motor vehicle fuel efficiency, 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 “Tax Incentives for Fuel  
5       Efficient Vehicles Act of 2003”.

6       **SEC. 2. MODIFICATIONS TO GAS GUZZLERS TAX TO EN-**  
7       **COURAGE GREATER AUTO FUEL EFFICIENCY.**

8       (a) INCREASE IN TAX RATE.—Subsection (a) of sec-  
9       tion 4064 of the Internal Revenue Code of 1986 (relating  
10      to gas guzzlers tax) is amended to read as follows:

1 “(a) IMPOSITION OF TAX.—

2 “(1) IN GENERAL.—There is hereby imposed on  
3 the sale by the manufacturer of each automobile a  
4 tax determined in accordance with the following  
5 table:

<b>If the fuel economy for the model year of the model type in which the automobile falls is:</b>	<b>The tax is:</b>
Less than 5 mpg below the applicable fuel economy standard	\$0
At least 5 but less than 6 mpg below such standard .....	1,000
At least 6 but less than 7 mpg below such standard .....	1,500
At least 7 but less than 8 mpg below such standard .....	2,000
At least 8 but less than 9 mpg below such standard .....	2,500
At least 9 but less than 10 mpg below such standard .....	3,100
At least 10 but less than 11 mpg below such standard .....	3,800
At least 11 but less than 12 mpg below such standard .....	4,600
At least 12 but less than 13 mpg below such standard .....	5,500
At least 13 but less than 14 mpg below such standard .....	6,500
At least 14 mpg below such standard .....	7,700.

6 “(2) INFLATION ADJUSTMENT.—

7 “(A) IN GENERAL.—In the case of any  
8 taxable year beginning after 2005, each dollar  
9 amount referred to in paragraph (1) shall be in-  
10 creased by an amount equal to—

11 “(i) such dollar amount, multiplied by

12 “(ii) the cost-of-living adjustment de-  
13 termined under section (1)(f)(3) for the  
14 calendar year in which the taxable year be-  
15 gins, by substituting ‘2004’ for ‘1992’.

16 “(B) ROUNDING.—If any amount as ad-  
17 justed under subparagraph (A) is not a multiple  
18 of \$100, such amount shall be rounded to the  
19 next lowest multiple of \$50.”.

1 (b) EXPANSION OF DEFINITION OF AUTOMOBILE.—

2 (1) INCREASE IN WEIGHT.—Section  
3 4064(b)(1)(A)(ii) of the Internal Revenue Code of  
4 1986 (defining automobile) is amended by striking  
5 “6,000 pounds” and inserting “12,000 pounds”.

6 (2) EXCEPTION FOR CERTAIN VEHICLES.—Sub-  
7 paragraph (B) of section 4064(b)(1) of such Code is  
8 amended to read as follows:

9 “(B) EXCEPTION FOR CERTAIN VEHI-  
10 CLES.—The term ‘automobile’ does not in-  
11 clude—

12 “(i) a vehicle which has a primary  
13 load carrying device or container attached,

14 “(ii) a vehicle which has a seating ca-  
15 pacity of more than 12 persons,

16 “(iii) a vehicle which has a seating ca-  
17 pacity of more than 9 persons behind the  
18 driver’s seat, or

19 “(iv) a vehicle which is equipped with  
20 a cargo area of at least 6 feet in interior  
21 length which is an open area or is designed  
22 for use as an open area but is enclosed by  
23 a cap and is not readily accessible directly  
24 from the passenger compartment.”.

1 (c) ADDITIONAL DEFINITIONS.—Section 4064(b) of  
 2 the Internal Revenue Code of 1986 (relating to defini-  
 3 tions) is amended by adding at the end the following new  
 4 paragraphs:

5 “(8) APPLICABLE FUEL ECONOMY STAND-  
 6 ARD.—The term ‘applicable fuel economy standard’  
 7 means, with respect to any model year, the average  
 8 fuel economy standard as defined in section 32902  
 9 of title 49, United States Code, for passenger auto-  
 10 mobiles for such model year.

11 “(9) MPG.—The term ‘mpg’ means miles per  
 12 gallon.”.

13 (d) EFFECTIVE DATE.—The amendments made by this  
 14 section shall apply to sales after October 31, 2005.

15 **SEC. 3. HIGHLY FUEL-EFFICIENT AUTOMOBILE CREDIT.**

16 (a) IN GENERAL.—Subpart C of part IV of sub-  
 17 chapter A of chapter 1 of the Internal Revenue Code of  
 18 1986 (relating to refundable credits) is amended by redes-  
 19 ignating section 36 as section 37 and by inserting after  
 20 section 35 the following new section:

21 **“SEC. 36. HIGHLY FUEL-EFFICIENT AUTOMOBILE CREDIT.**

22 “(a) ALLOWANCE OF CREDIT.—There shall be al-  
 23 lowed as a credit against the tax imposed by this subtitle  
 24 for the taxable year an amount equal to the new highly

1 fuel-efficient automobile credit determined under sub-  
 2 section (b).

3 “(b) NEW HIGHLY FUEL-EFFICIENT AUTOMOBILE  
 4 CREDIT.—For purposes of subsection (a), the new highly  
 5 fuel-efficient automobile credit with respect to any new  
 6 automobile placed in service by the taxpayer during the  
 7 taxable year is determined in accordance with the fol-  
 8 lowing tables:

**If the fuel economy for the model year  
 of the model type in which the  
 passenger automobile falls is:**

	<b>The credit is:</b>
Less than 5 mpg above the applicable fuel economy standard	\$0
At least 5 but less than 6 mpg above such standard .....	770
At least 6 but less than 7 mpg above such standard .....	1,540
At least 7 but less than 8 mpg above such standard .....	2,310
At least 8 but less than 9 mpg above such standard .....	3,080
At least 9 but less than 10 mpg above such standard .....	3,850
At least 10 but less than 11 mpg above such standard .....	4,620
At least 11 but less than 12 mpg above such standard .....	5,390
At least 12 but less than 13 mpg above such standard .....	6,160
At least 13 but less than 14 mpg above such standard .....	6,930
At least 14 mpg above such standard .....	7,700.

**If the fuel economy for the model year  
 of the model type in which the  
 non-passenger automobile falls is:**

	<b>The credit is:</b>
Less than 5 mpg above the applicable fuel economy standard	\$0
At least 5 but less than 6 mpg above such standard .....	770
At least 6 but less than 7 mpg above such standard .....	1,540
At least 7 but less than 8 mpg above such standard .....	2,310
At least 8 but less than 9 mpg above such standard .....	3,080
At least 9 but less than 10 mpg above such standard .....	3,850
At least 10 but less than 11 mpg above such standard .....	4,620
At least 11 but less than 12 mpg above such standard .....	5,390
At least 12 but less than 13 mpg above such standard .....	6,160
At least 13 but less than 14 mpg above such standard .....	6,930
At least 14 mpg above such standard .....	7,700.

9 “(c) NEW AUTOMOBILE.—For purposes of this sec-  
 10 tion, the term ‘new automobile’ means a passenger auto-  
 11 mobile or non-passenger automobile—

1           “(1) the original use of which commences with  
2           the taxpayer,

3           “(2) which is acquired for use or lease by the  
4           taxpayer and not for resale, and

5           “(3) which is made by a manufacturer.

6           “(d) PASSENGER AUTOMOBILE; NON-PASSENGER  
7           AUTOMOBILE.—For purposes of this section—

8           “(1) PASSENGER AUTOMOBILE.—The term  
9           ‘passenger automobile’ has the meaning given the  
10          term ‘automobile’ by section 4064(b)(1).

11          “(2) NON-PASSENGER AUTOMOBILE.—

12                 “(A) IN GENERAL.—The term ‘non-pas-  
13                 senger automobile’ means any automobile (as  
14                 defined in section 4064(b)(1)(A)), but only if  
15                 such automobile is described in subparagraph  
16                 (B).

17                 “(B) NON-PASSENGER AUTOMOBILES DE-  
18                 SCRIBED.—An automobile is described in this  
19                 subparagraph if such automobile is—

20                         “(i) a vehicle which has a primary  
21                         load carrying device or container attached,

22                         “(ii) a vehicle which has a seating ca-  
23                         pacity of more than 12 persons,

1 “(iii) a vehicle which has a seating ca-  
 2 pacity of more than 9 persons behind the  
 3 driver’s seat, or

4 “(iv) a vehicle which is equipped with  
 5 a cargo area of at least 6 feet in interior  
 6 length which does not extend beyond the  
 7 frame of the vehicle and which is an open  
 8 area or is designed for use as an open area  
 9 but is enclosed by a cap and is not readily  
 10 accessible directly from the passenger com-  
 11 partment.

12 “(e) OTHER DEFINITIONS.—Except as provided in  
 13 subsection (d), for purposes of this section, any term used  
 14 in this section and also in section 4064 shall have the  
 15 meaning given such term by section 4064.

16 “(f) SPECIAL RULES.—For purposes of this sec-  
 17 tion—

18 “(1) REDUCTION IN BASIS.—For purposes of  
 19 this subtitle, the basis of any property for which a  
 20 credit is allowable under subsection (a) shall be re-  
 21 duced by the amount of such credit so allowed.

22 “(2) NO DOUBLE BENEFIT.—The amount of  
 23 any deduction or other credit allowable under this  
 24 chapter with respect to an automobile described  
 25 under subsection (b), shall be reduced by the

1 amount of credit allowed under subsection (a) for  
2 such automobile for the taxable year.

3 “(3) PROPERTY USED BY TAX-EXEMPT ENTI-  
4 TIES.—In the case of a credit amount which is al-  
5 lowable with respect to an automobile which is ac-  
6 quired by an entity exempt from tax under this  
7 chapter, the person which sells or leases such auto-  
8 mobile to the entity shall be treated as the taxpayer  
9 with respect to the automobile for purposes of this  
10 section and the credit shall be allowed to such per-  
11 son, but only if the person clearly discloses to the  
12 entity at the time of any sale or lease the specific  
13 amount of any credit otherwise allowable to the enti-  
14 ty under this section.

15 “(4) RECAPTURE.—The Secretary shall, by reg-  
16 ulations, provide for recapturing the benefit of any  
17 credit allowable under subsection (a) with respect to  
18 any property which ceases to be property eligible for  
19 such credit (including recapture in the case of a  
20 lease period of less than the economic life of an  
21 automobile).

22 “(5) PROPERTY USED OUTSIDE UNITED  
23 STATES, ETC., NOT QUALIFIED.—No credit shall be  
24 allowed under subsection (a) with respect to any  
25 property referred to in section 50(b) or with respect



1 to the portion of the cost of any property taken into  
 2 account under section 179.

3 “(6) ELECTION TO NOT TAKE CREDIT.—No  
 4 credit shall be allowed under subsection (a) for any  
 5 automobile if the taxpayer elects to not have this  
 6 section apply to such automobile.

7 “(7) INTERACTION WITH AIR QUALITY AND  
 8 MOTOR VEHICLE SAFETY STANDARDS.—Unless oth-  
 9 erwise provided in this section, an automobile shall  
 10 not be considered eligible for a credit under this sec-  
 11 tion unless such automobile is in compliance with—

12 “(A) the applicable provisions of the Clean  
 13 Air Act for the applicable make and model year  
 14 of the automobile (or applicable air quality pro-  
 15 visions of State law in the case of a State which  
 16 has adopted such provision under a waiver  
 17 under section 209(b) of the Clean Air Act), and

18 “(B) the motor vehicle safety provisions of  
 19 sections 30101 through 30169 of title 49,  
 20 United States Code.

21 “(g) REGULATIONS.—

22 “(1) IN GENERAL.—Except as provided in para-  
 23 graph (2), the Secretary shall promulgate such regu-  
 24 lations as necessary to carry out the provisions of  
 25 this section.

1           “(2) COORDINATION IN PRESCRIPTION OF CER-  
 2           TAIN REGULATIONS.—The Secretary of the Treas-  
 3           ury, in coordination with the Secretary of Transpor-  
 4           tation and the Administrator of the Environmental  
 5           Protection Agency, shall prescribe such regulations  
 6           as necessary to determine whether an automobile  
 7           meets the requirements to be eligible for a credit  
 8           under this section.”.

9           (b) CONFORMING AMENDMENTS.—

10           (1) Section 1016(a) of the Internal Revenue  
 11           Code of 1986 is amended by striking “and” at the  
 12           end of paragraph (27), by striking the period at the  
 13           end of paragraph (28) and inserting “, and”, and by  
 14           adding at the end the following new paragraph:

15           “(29) to the extent provided in section  
 16           36(f)(1).”.

17           (2) Section 6501(m) of such Code is amended  
 18           by inserting “36(f)(6),” after “30(d)(4),”.

19           (3) Paragraph (2) of section 1324(b) of title  
 20           31, United States Code, is amended by inserting be-  
 21           fore the period “, or from section 36 of such Code”.

22           (4) The table of sections for subpart C of part  
 23           IV of chapter 1 of the Internal Revenue Code of  
 24           1986 is amended by striking the last item and in-  
 25           serting the following new items:

“Sec. 36. Highly fuel-efficient automobile credit.

“Sec. 37. Overpayments of tax.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to property placed in service after  
3 October 31, 2005, in taxable years ending after such date.

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