

109TH CONGRESS
1ST SESSION

H. R. 3059

To provide for Flexible Fuel Vehicle (FFV) refueling capability at new and existing refueling station facilities to promote energy security.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2005

Ms. CARSON (for herself and Mr. SHIMKUS) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To provide for Flexible Fuel Vehicle (FFV) refueling capability at new and existing refueling station facilities to promote energy security.

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, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Alternative Fuel Utilization and Infrastructure Develop-
6 ment Incentives Act of 2005”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this division an
9 amendment or repeal is expressed in terms of an amend-
10 ment to, or repeal of, a section or other provision, the ref-

1 erence shall be considered to be made to a section or other
 2 provision of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents for
 4 this Act is as follows:

Sec. 1. Short title, etc.

Sec. 2. Purpose.

Sec. 3. Findings.

Sec. 4. Incentives for the installation of alternative fuel refueling stations.

Sec. 5. Incentives for the retail sale of alternative fuels as motor vehicle fuel.

5 **SEC. 2. PURPOSE.**

6 The purpose of this Act is to decrease the dependence
 7 of the United States on foreign oil by increasing the use
 8 of high ratio blends of gasoline with a minimum 85 per-
 9 cent domestically derived ethanol content (E-85) as an al-
 10 ternative fuel and providing greater access to this fuel for
 11 American motorists.

12 **SEC. 3. FINDINGS.**

13 Congress finds the following:

14 (1) The growing United States reliance on for-
 15 eign produced petroleum and the recent escalation of
 16 crude oil prices demands that all prudent measures
 17 be undertaken to increase United States refining ca-
 18 pacity, domestic oil production, and expanded utili-
 19 zation of alternative forms of transportation fuels
 20 and infrastructure.

21 (2) Recent studies confirm the environmental
 22 and overall energy security benefits of high ratio
 23 blends of gasoline with a minimum 85 percent do-

1 mestically derived ethanol content (E-85), especially
2 with regard to the reduction of greenhouse gas emis-
3 sions from the national on-road passenger car vehi-
4 cle fleet.

5 (3) The market penetration of E-85 capable
6 Flexible Fuel Vehicles (FFVs) now exceeds
7 5,000,000 with an additional 1,000,000 or more
8 FFVs expected to be added annually as automakers
9 continue to respond positively to congressionally pro-
10 vided production incentives.

11 (4) It is further recognized that actual imple-
12 mentation of the use of E-85 fuel has been signifi-
13 cantly underutilized due primarily to the lack of E-
14 85 refueling infrastructure availability and pro-
15 motion and that such utilization rate will continue to
16 lag unless resources are provided to substantially ac-
17 celerate national refueling infrastructure develop-
18 ment.

19 (5) Additionally, incentives in the form of tax
20 credits can serve to stimulate infrastructure develop-
21 ment and E-85 fuel utilization.

1 **SEC. 4. INCENTIVES FOR THE INSTALLATION OF ALTER-**
 2 **NATIVE FUEL REFUELING STATIONS.**

3 (a) IN GENERAL.—Subpart B of part IV of sub-
 4 chapter A of chapter 1 (relating to foreign tax credit, etc.)
 5 is amended by adding at the end the following new section:

6 **“SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
 7 **ERTY CREDIT.**

8 “(a) CREDIT ALLOWED.—There shall be allowed as
 9 a credit against the tax imposed by this chapter for the
 10 taxable year an amount equal to 50 percent of the cost
 11 of any qualified alternative fuel vehicle refueling property
 12 placed in service by the taxpayer during the taxable year.

13 “(b) LIMITATION.—

14 “(1) IN GENERAL.—The credit allowed under
 15 subsection (a) with respect to any alternative fuel
 16 vehicle refueling property shall not exceed—

17 “(A) \$30,000 in the case of a property of
 18 a character subject to an allowance for depre-
 19 ciation, and

20 “(B) \$1,000 in any other case.

21 “(2) PHASEOUT.—In the case of any qualified
 22 alternative fuel vehicle refueling property placed in
 23 service after December 31, 2010, the limit otherwise
 24 applicable under paragraph (1) shall be reduced
 25 by—

1 “(A) 25 percent in the case of any alter-
2 native fuel vehicle refueling property placed in
3 service in calendar year 2011, and

4 “(B) 50 percent in the case of any alter-
5 native fuel vehicle refueling property placed in
6 service in calendar year 2012.

7 “(c) DEFINITIONS.—For purposes of this section—

8 “(1) QUALIFIED ALTERNATIVE FUEL VEHICLE
9 REFUELING PROPERTY.—Except as provided in
10 paragraph (2), the term ‘qualified alternative fuel
11 vehicle refueling property’ has the meaning given to
12 such term by section 179A(d), but only with respect
13 to any fuel at least 85 percent of the volume of
14 which consists of ethanol.

15 “(2) RESIDENTIAL PROPERTY.—In the case of
16 any property installed on property which is used as
17 the principal residence (within the meaning of sec-
18 tion 121) of the taxpayer, paragraph (1) of section
19 179A(d) shall not apply.

20 “(d) APPLICATION WITH OTHER CREDITS.—The
21 credit allowed under subsection (a) for any taxable year
22 shall not exceed the excess (if any) of—

23 “(1) the regular tax for the taxable year re-
24 duced by the sum of the credits allowable under sub-
25 part A and sections 27, 29, and 30, over

1 “(2) the tentative minimum tax for the taxable
2 year.

3 “(e) CARRYFORWARD ALLOWED.—

4 “(1) IN GENERAL.—If the credit amount allow-
5 able under subsection (a) for a taxable year exceeds
6 the amount of the limitation under subsection (d)
7 for such taxable year, such excess shall be allowed
8 as a credit carryforward for each of the 20 taxable
9 years following the unused credit year.

10 “(2) RULES.—Rules similar to the rules of sec-
11 tion 39 shall apply with respect to the credit
12 carryforward under paragraph (1).

13 “(f) SPECIAL RULES.—For purposes of this sec-
14 tion—

15 “(1) BASIS REDUCTION.—The basis of any
16 property shall be reduced by the portion of the cost
17 of such property taken into account under sub-
18 section (a).

19 “(2) NO DOUBLE BENEFIT.—No deduction
20 shall be allowed under section 179A with respect to
21 any property with respect to which a credit is al-
22 lowed under subsection (a).

23 “(3) PROPERTY USED BY TAX-EXEMPT ENTI-
24 TY.—In the case of any qualified alternative fuel ve-
25 hicle refueling property the use of which is described

1 in paragraph (3) or (4) of section 50(b) and which
2 is not subject to a lease, the person who sold such
3 property to the person or entity using such property
4 shall be treated as the taxpayer that placed such
5 property in service, but only if such person clearly
6 discloses to such person or entity in a document the
7 amount of any credit allowable under subsection (a)
8 with respect to such property (determined without
9 regard to subsection (d)).

10 “(4) PROPERTY USED OUTSIDE UNITED
11 STATES, ETC., NOT QUALIFIED.—No credit shall be
12 allowable under subsection (a) with respect to any
13 property referred to in section 50(b)(1) or with re-
14 spect to the portion of the cost of any property
15 taken into account under section 179.

16 “(5) ELECTION NOT TO TAKE CREDIT.—No
17 credit shall be allowed under subsection (a) for any
18 property if the taxpayer elects not to have this sec-
19 tion apply to such property.

20 “(6) RECAPTURE RULES.—Rules similar to the
21 rules of section 179A(e)(4) shall apply.

22 “(g) REGULATIONS.—The Secretary shall prescribe
23 such regulations as necessary to carry out the provisions
24 of this section.

1 “(h) TERMINATION.—This section shall not apply to
2 any property placed in service after December 31, 2013.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 1016(a) is amended by striking
5 “and” at the end of paragraph (30), by striking the
6 period at the end of paragraph (31) and inserting “,
7 and”, and by adding at the end the following new
8 paragraph:

9 “(32) to the extent provided in section
10 30B(f)(1).”.

11 (2) Section 55(c)(2) is amended by inserting
12 “30B(e),” after “30(b)(3),”.

13 (3) Section 6501(m) is amended by inserting
14 “30B(f)(5),” after “30(d)(4),”.

15 (4) The table of sections for subpart B of part
16 IV of subchapter A of chapter 1 is amended by in-
17 serting after the item relating to section 30A the fol-
18 lowing new item:

“Sec. 30B. Alternative fuel vehicle refueling property credit.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to property placed in service after
21 the date of the enactment of this Act, in taxable years
22 ending after such date.

1 **SEC. 5. INCENTIVES FOR THE RETAIL SALE OF ALTER-**
 2 **NATIVE FUELS AS MOTOR VEHICLE FUEL.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
 4 chapter A of chapter 1 (relating to business related cred-
 5 its) is amended by inserting after section 40A the fol-
 6 lowing new section:

7 **“SEC. 40B. CREDIT FOR RETAIL SALE OF ALTERNATIVE**
 8 **FUELS AS MOTOR VEHICLE FUEL.**

9 “(a) GENERAL RULE.—The alternative fuel retail
 10 sales credit for any taxable year is 35 cents for each gallon
 11 of alternative fuel sold at retail by the taxpayer during
 12 such year.

13 “(b) DEFINITIONS.—For purposes of this section—
 14 “(1) ALTERNATIVE FUEL.—The term ‘alter-
 15 native fuel’ means any fuel at least 85 percent of the
 16 volume of which consists of ethanol.

17 “(2) SOLD AT RETAIL.—

18 “(A) IN GENERAL.—The term ‘sold at re-
 19 tail’ means the sale, for a purpose other than
 20 resale, after manufacture, production, or impor-
 21 tation.

22 “(B) USE TREATED AS SALE.—If any per-
 23 son uses alternative fuel (including any use
 24 after importation) as a fuel to propel any quali-
 25 fied alternative fuel motor vehicle (as defined in
 26 this section) before such fuel is sold at retail,

1 then such use shall be treated in the same man-
2 ner as if such fuel were sold at retail as a fuel
3 to propel such a vehicle by such person.

4 “(3) QUALIFIED ALTERNATIVE FUEL MOTOR
5 VEHICLE.—The term ‘new qualified alternative fuel
6 motor vehicle’ means any motor vehicle—

7 “(A) which is capable of operating on an
8 alternative fuel,

9 “(B) the original use of which commences
10 with the taxpayer,

11 “(C) which is acquired by the taxpayer for
12 use or lease, but not for resale, and

13 “(D) which is made by a manufacturer.

14 “(c) ELECTION TO PASS CREDIT.—A person which
15 sells alternative fuel at retail may elect to pass the credit
16 allowable under this section to the purchaser of such fuel
17 or, in the event the purchaser is a tax-exempt entity or
18 otherwise declines to accept such credit, to the person
19 which supplied such fuel, under rules established by the
20 Secretary.

21 “(d) PASS-THRU IN THE CASE OF ESTATES AND
22 TRUSTS.—Under regulations prescribed by the Secretary,
23 rules similar to the rules of subsection (d) of section 52
24 shall apply.

1 “(e) TERMINATION.—This section shall not apply to
2 any fuel sold at retail after December 31, 2010.”.

3 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
4 tion 38(b) (relating to current year business credit) is
5 amended by striking “plus” at the end of paragraph (18),
6 by striking the period at the end of paragraph (19) and
7 inserting “, plus”, and by adding at the end the following
8 new paragraph:

9 “(20) the alternative fuel retail sales credit de-
10 termined under section 40B(a).”.

11 (c) CLERICAL AMENDMENT.—The table of sections
12 for subpart D of part IV of subchapter A of chapter 1
13 is amended by inserting after the item relating to section
14 40A the following new item:

“Sec. 40B. Credit for retail sale of alternative fuels as motor vehicle fuel.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to fuel sold at retail after the date
17 of the enactment of this Act, in taxable years ending after
18 such date.

