

109TH CONGRESS  
2D SESSION

# S. 2817

To promote renewable fuel and energy security of the United States, and  
for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 16, 2006

Mr. HARKIN (for himself, Mr. LUGAR, Mr. JOHNSON, Mr. DORGAN, and Mr. BIDEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To promote renewable fuel and energy security of the United  
States, 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 “Biofuels Security Act of 2006”.

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—RENEWABLE FUELS

Sec. 101. Renewable fuel program.

- Sec. 102. Installation of E-85 fuel pumps by major oil companies at owned stations and branded stations.
- Sec. 103. Minimum Federal fleet requirement.
- Sec. 104. Application of Gasohol Competition Act of 1980.

## TITLE II—DUAL FUELED AUTOMOBILES

- Sec. 201. Requirement to manufacture dual fueled automobiles.
- Sec. 202. Manufacturing incentives for dual fueled automobiles.

# 1      **TITLE I—RENEWABLE FUELS**

## 2      **SEC. 101. RENEWABLE FUEL PROGRAM.**

3            Section 211(o)(2) of the Clean Air Act (42 U.S.C.  
4      7545(o)(2)) is amended by striking subparagraph (B) and  
5      inserting the following:

6                    “(B) APPLICABLE VOLUME.—

7                    “(i) IN GENERAL.—For the purpose  
8                    of subparagraph (A), the applicable volume  
9                    for calendar year 2010 and each calendar  
10                   year thereafter shall be determined, by  
11                   rule, by the Administrator, in consultation  
12                   with the Secretary of Agriculture and the  
13                   Secretary of Energy, in a manner that en-  
14                   sures that—

15                   “(I) the requirements described  
16                   in clause (ii) for specified calendar  
17                   years are met; and

18                   “(II) the applicable volume for  
19                   each calendar year not specified in  
20                   clause (ii) is determined on an annual  
21                   basis.

1 “(ii) REQUIREMENTS.—The require-  
 2 ments referred to in clause (i) are—

3 “(I) for calendar year 2010, at  
 4 least 10,000,000,000 gallons of re-  
 5 newable fuel;

6 “(II) for calendar year 2020, at  
 7 least 30,000,000,000 gallons of re-  
 8 newable fuel; and

9 “(III) for calendar year 2030, at  
 10 least 60,000,000,000 gallons of re-  
 11 newable fuel.”.

12 **SEC. 102. INSTALLATION OF E-85 FUEL PUMPS BY MAJOR**  
 13 **OIL COMPANIES AT OWNED STATIONS AND**  
 14 **BRANDED STATIONS.**

15 Section 211(o) of the Clean Air Act (42 U.S.C.  
 16 7545(o)) is amended by adding at the end the following:

17 “(11) INSTALLATION OF E-85 FUEL PUMPS BY  
 18 MAJOR OIL COMPANIES AT OWNED STATIONS AND  
 19 BRANDED STATIONS.—

20 “(A) DEFINITIONS.—In this paragraph:

21 “(i) E-85 FUEL.—The term ‘E-85  
 22 fuel’ means a blend of gasoline approxi-  
 23 mately 85 percent of the content of which  
 24 is derived from ethanol produced in the  
 25 United States.

1                   “(ii) MAJOR OIL COMPANY.—The  
2                   term ‘major oil company’ means any per-  
3                   son that, individually or together with any  
4                   other person with respect to which the per-  
5                   son has an affiliate relationship or signifi-  
6                   cant ownership interest, has not less than  
7                   4,500 retail station outlets according to  
8                   the latest publication of the Petroleum  
9                   News Annual Factbook.

10                  “(iii) SECRETARY.—The term ‘Sec-  
11                  retary’ means the Secretary of Energy,  
12                  acting in consultation with the Adminis-  
13                  trator of the Environmental Protection  
14                  Agency and the Secretary of Agriculture.

15                  “(B) REGULATIONS.—The Secretary shall  
16                  promulgate regulations to ensure that each  
17                  major oil company that sells or introduces gaso-  
18                  line into commerce in the United States  
19                  through wholly-owned stations or branded sta-  
20                  tions installs or otherwise makes available 1 or  
21                  more pumps that dispense E-85 fuel (including  
22                  any other equipment necessary, such as includ-  
23                  ing tanks, to ensure that the pumps function  
24                  properly) at not less than the applicable per-  
25                  centage of the wholly-owned stations and the

1           branded stations of the major oil company spec-  
2           ified in subparagraph (C).

3           “(C) APPLICABLE PERCENTAGE.—For the  
4           purpose of subparagraph (B), the applicable  
5           percentage of the wholly-owned stations and the  
6           branded stations shall be determined in accord-  
7           ance with the following table:

“Calendar year:	Applicable percentage of wholly-owned stations and branded stations (percent):
2007 .....	5
2008 .....	10
2009 .....	15
2010 .....	20
2011 .....	25
2012 .....	30
2013 .....	35
2014 .....	40
2015 .....	45
2016 and each calendar year thereafter .....	50.

8           “(D) GEOGRAPHIC DISTRIBUTION.—

9           “(i) IN GENERAL.—Subject to clause  
10          (ii), in promulgating regulations under  
11          subparagraph (B), the Secretary shall en-  
12          sure that each major oil company described  
13          in subparagraph (B) installs or otherwise  
14          makes available 1 or more pumps that dis-  
15          pense E-85 fuel at not less than a min-  
16          imum percentage (specified in the regula-  
17          tions) of the wholly-owned stations and the  
18          branded stations of the major oil company  
19          in each State.

1                   “(ii) REQUIREMENT.—In specifying  
 2                   the minimum percentage under clause (i),  
 3                   the Secretary shall ensure that each major  
 4                   oil company installs or otherwise makes  
 5                   available 1 or more pumps described in  
 6                   that clause in each State in which the  
 7                   major oil company operates.

8                   “(E) FINANCIAL RESPONSIBILITY.—In  
 9                   promulgating regulations under subparagraph  
 10                  (B), the Secretary shall ensure that each major  
 11                  oil company described in that subparagraph as-  
 12                  sumes full financial responsibility for the costs  
 13                  of installing or otherwise making available the  
 14                  pumps described in that subparagraph and any  
 15                  other equipment necessary (including tanks) to  
 16                  ensure that the pumps function properly.

17                  “(F) PRODUCTION CREDITS FOR EXCEED-  
 18                  ING E-85 FUEL PUMPS INSTALLATION REQUIRE-  
 19                  MENT.—

20                  “(i) EARNING AND PERIOD FOR AP-  
 21                  PLYING CREDITS.—If the percentage of the  
 22                  wholly-owned stations and the branded sta-  
 23                  tions of a major oil company at which the  
 24                  major oil company installs E-85 fuel  
 25                  pumps in a particular calendar year ex-

ceeds the percentage required under subparagraph (C), the major oil company earns credits under this paragraph, which may be applied to any of the 3 consecutive calendar years immediately after the calendar year for which the credits are earned.

“(ii) TRADING CREDITS.—Subject to clause (iii), a major oil company that has earned credits under clause (i) may sell credits to another major oil company to enable the purchaser to meet the requirement under subparagraph (C).

“(iii) EXCEPTION.—A major oil company may not use credits purchased under clause (ii) to fulfill the geographic distribution requirement in subparagraph (D).”.

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

Section 303(b)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)(1)) is amended—

(1) in subparagraph (C), by striking “and” after the semicolon;

(2) in subparagraph (D), by striking “fiscal year 1999 and thereafter” and inserting “each of fiscal years 1999 through 2006; and”; and

1           (3) by inserting after subparagraph (D) the fol-  
 2       lowing:

3                   “(E) 100 percent in fiscal year 2007 and  
 4           thereafter,”.

5       **SEC. 104. APPLICATION OF GASOHOL COMPETITION ACT OF**  
 6                   **1980.**

7       Section 26 of the Clayton Act (15 U.S.C. 26a) is  
 8       amended—

9           (1) by redesignating subsection (c) as sub-  
 10      section (d);

11          (2) by inserting after subsection (b) the fol-  
 12      lowing:

13          “(c) For purposes of subsection (a), restricting the  
 14      right of a franchisee to install on the premises of that  
 15      franchisee a renewable fuel pump, such as one that dis-  
 16      penses E-85, shall be considered an unlawful restriction.”;  
 17      and

18          (3) in subsection (d) (as redesignated by para-  
 19      graph (1))—

20              (A) by striking “section,” and inserting the  
 21      following: “section—

22              “(1) the term”;

23              (B) by striking the period at the end and  
 24      inserting “; and”; and

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



“(2) the term ‘gasohol’ includes any blend of ethanol and gasoline such as E-85.”.

## TITLE II—DUAL FUELED AUTOMOBILES

### SEC. 201. REQUIREMENT TO MANUFACTURE DUAL FUELED AUTOMOBILES.

(a) REQUIREMENT.—

(1) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended by inserting after section 32902 the following:

#### “§ 32902A. Requirement to manufacture dual fueled automobiles

“(a) REQUIREMENT.—Each manufacturer of new automobiles that are capable of operating on gasoline or diesel fuel shall ensure that the percentage of such automobiles, manufactured in any model year after model year 2006 and distributed in commerce for sale in the United States, which are dual fueled automobiles is equal to not less than the applicable percentage set forth in the following table:

For each of the following model years:	The percentage of dual fueled automobiles manufactured shall be not less than:
2007 .....	10
2008 .....	20
2009 .....	30
2010 .....	40
2011 .....	50
2012 .....	60
2013 .....	70
2014 .....	80

<b>For each of the following model years:</b>	<b>The percentage of dual fueled automobiles manufactured shall be not less than:</b>
2015 .....	90
2016 and beyond .....	100.

1       “(b) PRODUCTION CREDITS FOR EXCEEDING FLEXI-  
2 BLE FUEL AUTOMOBILE PRODUCTION REQUIREMENT.—

3               “(1) EARNING AND PERIOD FOR APPLYING  
4 CREDITS.—If the number of dual fueled automobiles  
5 manufactured by a manufacturer in a particular  
6 model year exceeds the number required under sub-  
7 section (a), the manufacturer earns credits under  
8 this section, which may be applied to any of the 3  
9 consecutive model years immediately after the model  
10 year for which the credits are earned.

11              “(2) TRADING CREDITS.—A manufacturer that  
12 has earned credits under paragraph (1) may sell  
13 credits to another manufacturer to enable the pur-  
14 chaser to meet the requirement under subsection  
15 (a).”.

16              (2) TECHNICAL AMENDMENT.—The table of  
17 sections for chapter 329 of title 49, United States  
18 Code, is amended by inserting after the item relating  
19 to section 32902 the following:

“32902A. Requirement to manufacture dual fueled automobiles.”.

20              (b) ACTIVITIES TO PROMOTE THE USE OF CERTAIN  
21 ALTERNATIVE FUELS.—The Secretary of Transportation

1 shall carry out activities to promote the use of fuel mix-  
 2 tures containing gasoline or diesel fuel and 1 or more al-  
 3 ternative fuels, including a mixture containing at least 85  
 4 percent of methanol, denatured ethanol, and other alcohols  
 5 by volume with gasoline or other fuels, to power auto-  
 6 mobiles in the United States.

7 **SEC. 202. MANUFACTURING INCENTIVES FOR DUAL**  
 8 **FUELED AUTOMOBILES.**

9 Section 32905(b) of title 49, United States Code, is  
 10 amended—

11 (1) by redesignating paragraphs (1) and (2) as  
 12 subparagraphs (A) and (B), respectively;

13 (2) by inserting “(1)” before “Except”;

14 (3) by striking “model years 1993–2010” and  
 15 inserting “model year 1993 through the first model  
 16 year beginning not less than 18 months after the  
 17 date of enactment of the Biofuels Security Act of  
 18 2006”; and

19 (4) by adding at the end the following:

20 “(2) Except as provided in paragraph (5) of  
 21 this subsection, subsection (d) of this section, or sec-  
 22 tion 32904(a)(2) of this title, the Administrator  
 23 shall measure the fuel economy for each model of  
 24 dual fueled automobiles manufactured by a manufac-  
 25 turer in the first model year beginning not less than

1       30 months after the date of enactment of the  
2       Biofuels Security Act of 2006 by dividing 1.0 by the  
3       sum of—

4               “(A) 0.7 divided by the fuel economy  
5               measured under section 32904(c) of this title  
6               when operating the model on gasoline or diesel  
7               fuel; and

8               “(B) 0.3 divided by the fuel economy  
9               measured under subsection (a) when operating  
10              the model on alternative fuel.

11              “(3) Except as provided in paragraph (5) of  
12              this subsection, subsection (d) of this section, or sec-  
13              tion 32904(a)(2) of this title, the Administrator  
14              shall measure the fuel economy for each model of  
15              dual fueled automobiles manufactured by a manufac-  
16              turer in the first model year beginning not less than  
17              42 months after the date of enactment of the  
18              Biofuels Security Act of 2006 by dividing 1.0 by the  
19              sum of—

20               “(A) 0.9 divided by the fuel economy  
21               measured under section 32904(c) of this title  
22               when operating the model on gasoline or diesel  
23               fuel; and

1           “(B) 0.1 divided by the fuel economy  
2           measured under subsection (a) when operating  
3           the model on alternative fuel.

4           “(4) Except as provided in subsection (d) of  
5           this section, or section 32904(a)(2) of this title, the  
6           Administrator shall measure the fuel economy for  
7           each model of dual fueled automobiles manufactured  
8           by a manufacturer in each model year beginning not  
9           less than 54 months after the date of enactment of  
10          the Biofuels Security Act of 2006 in accordance with  
11          section 32904(c) of this title.

12          “(5) Notwithstanding paragraphs (2) through  
13          (4) of this subsection, the fuel economy for all dual  
14          fueled automobiles manufactured to comply with the  
15          requirements under section 32902A(a) of this title,  
16          including automobiles for which dual fueled auto-  
17          mobile credits have been used or traded under sec-  
18          tion 32902A(b) of this title, shall be measured in ac-  
19          cordance with section 32904(c) of this title.”.

○