

110TH CONGRESS  
1ST SESSION

# S. 23

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

JANUARY 4, 2007

Mr. HARKIN (for himself, Mr. LUGAR, Mr. DORGAN, Mr. BIDEN, and Mr. OBAMA) 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 2007”.

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.

“(ii) REQUIREMENTS.—The requirements referred to in clause (i) are—

“(I) for calendar year 2010, at least 10,000,000,000 gallons of renewable fuel;

“(II) for calendar year 2020, at least 30,000,000,000 gallons of renewable fuel; and

“(III) for calendar year 2030, at least 60,000,000,000 gallons of renewable fuel.”.

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

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

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

“(A) DEFINITIONS.—In this paragraph:

“(i) E-85 FUEL.—The term ‘E-85 fuel’ means a blend of gasoline approximately 85 percent of the content of which is derived from ethanol produced in the 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:

| <b>Applicable percentage of<br/>wholly-owned stations and<br/>branded stations<br/>(percent):</b> |     |
|---|-----|
| <b>“Calendar year:</b>  |     |
| 2008 .....  | 5   |
| 2009 .....  | 10  |
| 2010 .....  | 15  |
| 2011 .....  | 20  |
| 2012 .....  | 25  |
| 2013 .....  | 30  |
| 2014 .....  | 35  |
| 2015 .....  | 40  |
| 2016 .....  | 45  |
| 2017 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 2007; and”; and

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

3                   “(E) 100 percent in fiscal year 2008 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 E85, 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 2007 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:

| <b>“For each of the following model<br/>years:</b> | <b>The percentage of<br/>dual fueled auto-<br/>mobiles manufactured<br/>shall be not less than:</b> |
|--|---|
| 2008 .....   | 10  |
| 2009 .....   | 20  |
| 2010 .....   | 30  |
| 2011 .....   | 40  |
| 2012 .....   | 50  |
| 2013 .....   | 60  |
| 2014 .....   | 70  |

|                       |      |
|-----------------------|------|
| 2015 .....            | 80   |
| 2016 .....            | 90   |
| 2017 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  
22 shall carry out activities to promote the use of fuel mix-  
23 tures containing gasoline or diesel fuel and 1 or more al-

1 ternative fuels, including a mixture containing at least 85  
 2 percent of methanol, denatured ethanol, and other alcohols  
 3 by volume with gasoline or other fuels, to power auto-  
 4 mobiles in the United States.

5 **SEC. 202. MANUFACTURING INCENTIVES FOR DUAL**  
 6 **FUELED AUTOMOBILES.**

7 Section 32905(b) of title 49, United States Code, is  
 8 amended—

9 (1) by redesignating paragraphs (1) and (2) as  
 10 subparagraphs (A) and (B), respectively;

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

12 (3) by striking “model years 1993–2010” and  
 13 inserting “model year 1993 through the first model  
 14 year beginning not less than 18 months after the  
 15 date of enactment of the Biofuels Security Act of  
 16 2007”; and

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

18 “(2) Except as provided in paragraph (5), subsection  
 19 (d), or section 32904(a)(2), the Administrator shall meas-  
 20 ure the fuel economy for each model of dual fueled auto-  
 21 mobiles manufactured by a manufacturer in the first  
 22 model year beginning not less than 30 months after the  
 23 date of enactment of the Biofuels Security Act of 2007  
 24 by dividing 1.0 by the sum of—

1           “(A) 0.7 divided by the fuel economy measured  
2           under section 32904(c) when operating the model on  
3           gasoline or diesel fuel; and

4           “(B) 0.3 divided by the fuel economy measured  
5           under subsection (a) when operating the model on  
6           alternative fuel.

7           “(3) Except as provided in paragraph (5), subsection  
8           (d), or section 32904(a)(2), the Administrator shall meas-  
9           ure the fuel economy for each model of dual fueled auto-  
10          mobiles manufactured by a manufacturer in the first  
11          model year beginning not less than 42 months after the  
12          date of enactment of the Biofuels Security Act of 2007  
13          by dividing 1.0 by the sum of—

14           “(A) 0.9 divided by the fuel economy measured  
15           under section 32904(c) when operating the model on  
16           gasoline or diesel fuel; and

17           “(B) 0.1 divided by the fuel economy measured  
18           under subsection (a) when operating the model on  
19           alternative fuel.

20          “(4) Except as provided in subsection (d) or section  
21          32904(a)(2), the Administrator shall measure the fuel  
22          economy for each model of dual fueled automobiles manu-  
23          factured by a manufacturer in each model year beginning  
24          not less than 54 months after the date of enactment of

1 the Biofuels Security Act of 2007 in accordance with sec-  
2 tion 32904(c).

3 “(5) Notwithstanding paragraphs (2) through (4),  
4 the fuel economy for all dual fueled automobiles manufac-  
5 tured to comply with the requirements under section  
6 32902A(a), including automobiles for which dual fueled  
7 automobile credits have been used or traded under section  
8 32902A(b), shall be measured in accordance with section  
9 32904(c).”.

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