

110TH CONGRESS  
2D SESSION

# S. 3080

To ensure parity between the temporary duty imposed on ethanol and tax credits provided on ethanol.

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IN THE SENATE OF THE UNITED STATES

JUNE 4, 2008

Mrs. FEINSTEIN (for herself, Mr. GREGG, Ms. CANTWELL, Mr. ALLARD, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To ensure parity between the temporary duty imposed on ethanol and tax credits provided on ethanol.

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 “Imported Ethanol Par-  
5 ity Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) On May 6, 2006, the Chairman of the Fi-  
9 nance Committee of the Senate stated on the Senate  
10 floor that, “the United States tariff on ethanol oper-

1 ates as an offset to an excise tax credit that applies  
2 to both domestically produced and imported eth-  
3 anol.”.

4 (2) On May 9, 2006, the Renewable Fuels As-  
5 sociation stated: “the secondary tariff exists as an  
6 offset to the tax incentive gasoline refiners receive  
7 for every gallon of ethanol they blend, regardless of  
8 the ethanol’s origin.”. In May 2008, the Renewable  
9 Fuels Association’s Executive Director asserted that  
10 “The tariff is there not so much to protect the in-  
11 dustry but the United States taxpayer.”.

12 (3) In a letter to Congress dated June 20,  
13 2007, the American Coalition for Ethanol, the  
14 American Farm Bureau Federation, the National  
15 Corn Growers Association, the National Council of  
16 Farmer Cooperatives, the National Sorghum Pro-  
17 ducers, and the Renewable Fuels Association stated  
18 that the “(blender) tax credit is available to refiners  
19 regardless of whether the ethanol blended is im-  
20 ported or domestic. To prevent United States tax-  
21 payers from subsidizing foreign ethanol companies,  
22 Congress passed an offset to the tax credit that for-  
23 eign companies pay in the form of a tariff.”.

24 (4) The Food, Conservation, and Energy Act of  
25 2008, as contained in the Conference Report to ac-

1 company H.R. 2419 in the 110th Congress, proposes  
2 to decrease the excise tax credit for blending ethanol  
3 from \$0.51 to \$0.45 per gallon, but extend the  
4 \$0.54 per gallon temporary duty on imported eth-  
5 anol, increasing the competitive disadvantage of eth-  
6 anol imports in the United States marketplace. The  
7 legislation would transform a tariff designed to off-  
8 set a domestic subsidy into a real import barrier of  
9 at least \$0.09 per gallon.

10 (5) The State of California is adopting a Low  
11 Carbon Fuels Standard that requires a reduction in  
12 the lifecycle greenhouse gas emissions from trans-  
13 portation fuels, and the Energy Independence and  
14 Security Act of 2007 requires the United States to  
15 use increasing quantities of “advanced biofuels” that  
16 have lifecycle greenhouse gas emissions that are at  
17 least 50 percent less than lifecycle greenhouse gas  
18 emissions from gasoline.

19 (6) The lifecycle greenhouse gas emissions of  
20 ethanol vary depending on production methods and  
21 feedstocks. These differences will impact the degree  
22 to which ethanol may be used to meet “low-carbon”  
23 fuel requirements under California law and the En-  
24 ergy Independence and Security Act of 2007.

1           (7) Sugar cane ethanol plants use biomass from  
2 sugar stalks as process energy, resulting in less fos-  
3 sil fuel input compared to current corn-to-ethanol  
4 processes.

5           (8) The 2007 California Energy Commission  
6 Report, entitled “Full Fuel Cycle Assessment: Well-  
7 to-Wheels Energy Inputs, Emissions, and Water Im-  
8 pacts”, concluded that the direct lifecycle greenhouse  
9 gas emissions of imported sugar based ethanol are  
10 68 percent lower than gasoline, while the direct  
11 lifecycle greenhouse gas emissions of corn based eth-  
12 anol from the Midwest are 15 to 28 percent lower  
13 than gasoline.

14           (9) The cost to ship ethanol by sea from foreign  
15 production areas to California is competitive with  
16 the cost to ship ethanol by rail from the American  
17 Midwest, according to ethanol producers and import-  
18 ers.

19           (10) Ethanol production will vary from region  
20 to region each year based on crop performance, and  
21 a global biofuels marketplace would permit mutually  
22 beneficial trade between producing regions capable  
23 of stabilizing both fuel and food prices.

24           (11) In March 2007, the United States and  
25 Brazil entered into a strategic alliance to cooperate

1 on advanced research for biofuels, develop biofuel  
2 technology, and expand the production and use of  
3 biofuels throughout the Western Hemisphere, espe-  
4 cially in the Caribbean and Central America.

5 (12) On March 9, 2007, President Bush stated  
6 “it’s in the interest of the United States that there  
7 be a prosperous neighborhood. And one way to help  
8 spread prosperity in Central America is for them to  
9 become energy producers.”.

10 (13) According to a February 2008 study by  
11 the Massachusetts Institute of Technology, titled  
12 “Biomass to Ethanol: Potential Production and En-  
13 vironmental Impacts”, the current ethanol distribu-  
14 tion system in the United States is not capable of  
15 efficiently supplying ethanol to the East Coast mar-  
16 kets.

17 **SEC. 3. ETHANOL TAX PARITY.**

18 Not later than 30 days after the date of the enact-  
19 ment of this Act, and semiannually thereafter, the Presi-  
20 dent shall reduce the temporary duty imposed on ethanol  
21 under subheading 9901.00.50 of the Harmonized Tariff  
22 Schedule of the United States by an amount equal to the  
23 reduction in any Federal income or excise tax credit under  
24 section 40(h), 6426(b), or 6427(e)(1) of the Internal Rev-  
25 enue Code of 1986 and take any other action necessary

1 to ensure that the temporary duty imposed on ethanol  
2 under such subheading 9901.00.50 is equal to, or lower  
3 than, any Federal income or excise tax credit applicable  
4 to ethanol under the Internal Revenue Code of 1986.

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