

112TH CONGRESS
1ST SESSION

H. R. 523

To make the United States exclusively liable for certain claims of liability to the extent such liability is a claim for damages resulting from, or aggravated by, the inclusion of ethanol in transportation fuel.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2011

Mr. GONZALEZ introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To make the United States exclusively liable for certain claims of liability to the extent such liability is a claim for damages resulting from, or aggravated by, the inclusion of ethanol in transportation fuel.

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 “American Fuel Protec-
5 tion Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1 (1) Ethanol is currently widely distributed in
2 commerce for general use in all conventional gaso-
3 line-powered onroad and nonroad vehicles and
4 nonroad engines in widespread use.

5 (2) A decision to increase the current blending
6 limit of ethanol into gasoline for motor vehicle and
7 equipment engines requires an agency finding that
8 the increased emission products will not cause or
9 contribute to a failure of any emission control device
10 or system (over the useful life of the motor vehicle,
11 motor vehicle engine, nonroad engine or nonroad ve-
12 hicle in which such device or system is used).

13 (3) Significant questions and concerns exist as
14 to the effects of increasing the current blending limit
15 of ethanol into gasoline for motor vehicle and equip-
16 ment engines on the performance of such engines.

17 (4) Effects such as increased engine failures,
18 decreased engine performance, increased consumer
19 complaints, increased litigation, or other unforeseen
20 effects could have a significant impact on interstate
21 commerce.

22 (5) The Federal Trade Commission has pro-
23 posed labeling requirements for all fuels distributed
24 in commerce that exceed the current blending limit
25 of ethanol into gasoline to disclose to consumers that

1 using such fuels may harm some conventional vehi-
2 cles.

3 (6) A multi-faceted Federal testing regimen is
4 currently underway on newer motor vehicles to de-
5 termine the effects on motor vehicle engines of in-
6 creasing the current blending limit of ethanol into
7 gasoline.

8 (7) There is insufficient data on the effects of
9 increasing the current blending limit of ethanol into
10 gasoline on older vehicles and nonroad engines.

11 (8) Nonetheless, the executive branch—

12 (A) has statutory authority to increase the
13 current blending limit of ethanol into gasoline;
14 and

15 (B) is currently undertaking a process to
16 reach a decision on this issue.

17 (9) It is appropriate for Congress to mitigate
18 undue effects on parties engaged in interstate com-
19 merce resulting from a Federal decision to allow an
20 increase of the current blending limit of ethanol into
21 gasoline.

1 **SEC. 3. LIABILITY FOR CLAIMS BASED ON DAMAGES RE-**
2 **SULTING FROM, OR AGGRAVATED BY, THE IN-**
3 **CLUSION OF ETHANOL IN CERTAIN FUEL.**

4 (a) **EXCLUSIVE REMEDY AGAINST UNITED**
5 **STATES.—**

6 (1) Notwithstanding any other provision of law,
7 any claim of liability described in subsection (b)
8 against a qualified entity is deemed to be a claim of
9 liability against the United States, and any such
10 claim shall lie exclusively against the United States.

11 (2) Sovereign immunity is abrogated as to the
12 United States to the extent set forth in this section.

13 (b) **CLAIM OF LIABILITY.—**A claim of liability is de-
14 scribed in this subsection to the extent such liability is
15 based upon damages resulting from, or aggravated by, the
16 use of any transportation fuel (as defined in section
17 211(o) of the Clean Air Act) containing ethanol in con-
18 centrations greater than 10 percent pursuant to a waiver
19 under section 211(f)(4) of the Clean Air Act to operate
20 an internal combustion engine.

21 (c) **LIMIT ON DAMAGES.—**Damages awarded for such
22 a claim shall not exceed the actual damages sustained by
23 the claimant.

24 (d) **EXCLUSIVE JURISDICTION.—**The district courts
25 shall have exclusive jurisdiction of any civil action on a
26 claim of liability described under subsection (b).

1 (e) DEFINITION.—In this section, the term “qualified
2 entity” means an entity engaged in the manufacture, use,
3 sale, or distribution of—

4 (1) transportation fuel or renewable fuel (as de-
5 fined in section 211(o) of the Clean Air Act); or

6 (2) products which use transportation fuel.

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