

118TH CONGRESS
1ST SESSION

S. 1707

To amend the Energy Policy and Conservation Act to reinstate the ban on the export of crude oil and natural gas produced in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 18, 2023

Mr. MARKEY (for himself, Mr. MERKLEY, Mr. SANDERS, Ms. WARREN, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Energy Policy and Conservation Act to reinstate the ban on the export of crude oil and natural gas produced in 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.**

4 This Act may be cited as the “Block All New Fossil
5 Fuel Exports Act” or the “BAN Fossil Fuel Exports
6 Act”.

1 **SEC. 2. DOMESTIC USE OF ENERGY SUPPLIES AND RE-**
2 **LATED MATERIALS AND EQUIPMENT.**

3 (a) IN GENERAL.—The Energy Policy and Conserva-
4 tion Act (42 U.S.C. 6201 et seq.) is amended by inserting
5 after section 101 the following:

6 **“SEC. 102. DOMESTIC USE OF ENERGY SUPPLIES AND RE-**
7 **LATED MATERIALS AND EQUIPMENT.**

8 “(a) EXPORT RESTRICTIONS.—The President, by
9 rule, under such terms and conditions as the President
10 determines to be appropriate and necessary to carry out
11 the purposes of this Act, may restrict exports of—

12 “(1) coal, petroleum products, natural gas, or
13 petrochemical feedstocks; and

14 “(2) supplies of materials or equipment that the
15 President determines to be necessary—

16 “(A) to maintain or further exploration,
17 production, refining, or transportation of energy
18 supplies; or

19 “(B) for the construction or maintenance
20 of energy facilities within the United States.

21 “(b) PROHIBITION OF EXPORT OF CRUDE OIL AND
22 NATURAL GAS.—

23 “(1) RULE.—Subject to paragraph (2), the
24 President shall exercise the authority provided under
25 subsection (a) to promulgate a rule prohibiting the

1 export of crude oil and natural gas produced in the
2 United States.

3 “(2) EXEMPTIONS.—

4 “(A) IN GENERAL.—In accordance with
5 subparagraph (A), the President may exempt
6 from a prohibition on the export of crude oil
7 and natural gas under paragraph (1) any crude
8 oil or natural gas exports that the President de-
9 termines to be consistent with—

10 “(i) the national interest; and

11 “(ii) the purposes of this Act.

12 “(B) REQUIREMENTS.—An exemption
13 from a rule prohibiting crude oil or natural gas
14 exports under paragraph (1)—

15 “(i) shall be—

16 “(I) included in the rule; or

17 “(II) provided for in an amend-
18 ment to the rule; and

19 “(ii) may be based on—

20 “(I) the purpose for export;

21 “(II) the class of seller or pur-
22 chaser;

23 “(III) the country of destination;

24 or

1 “(IV) any other reasonable clas-
2 sification or basis that the President
3 determines to be—

4 “(aa) appropriate; and

5 “(bb) consistent with—

6 “(AA) the national in-
7 terest; and

8 “(BB) the purposes of
9 this Act.

10 “(c) IMPOSITION OF RESTRICTIONS.—

11 “(1) IN GENERAL.—In order to implement any
12 rule promulgated under subsection (a), the President
13 may direct the Secretary of Commerce to impose
14 such restrictions as are specified in the rule on ex-
15 ports of—

16 “(A) coal, petroleum products, natural gas,
17 or petrochemical feedstocks; and

18 “(B) supplies of materials and equipment
19 described in paragraph (2) of that subsection.

20 “(2) PROCEDURES.—The Secretary shall im-
21 pose restrictions under paragraph (1) pursuant to
22 procedures established under the Export Control Re-
23 form Act of 2018 (50 U.S.C. 4801 et seq.).

24 “(d) RESTRICTIONS AND NATIONAL INTEREST.—

25 Any finding by the President pursuant to subsection (a)

1 or (b) and any action taken by the Secretary of Commerce
2 pursuant to those subsections shall take into account the
3 national interest as related to the need to leave uninter-
4 rupted or unimpaired—

5 “(1) exchanges in similar quantity for conven-
6 ience or increased efficiency of transportation with
7 persons or the government of a foreign state;

8 “(2) temporary exports for convenience or in-
9 creased efficiency of transportation across parts of
10 an adjacent foreign state before reentering the
11 United States; and

12 “(3) the historical trading relations of the
13 United States with Canada and Mexico.

14 “(e) WAIVER OF NOTICE AND COMMENT PERIOD.—

15 “(1) IN GENERAL.—Subject to paragraph (2),
16 subchapter II of chapter 5 of title 5, United States
17 Code, shall apply with respect to the promulgation
18 of any rule pursuant to this section.

19 “(2) WAIVER.—

20 “(A) IN GENERAL.—The President may
21 waive with respect to the promulgation of any
22 rule pursuant to this section the notice and
23 comment provisions of subchapter II of chapter
24 5 of title 5, United States Code, only if the
25 President determines that compliance with the

requirements may seriously impair the ability of the President to impose effective and timely prohibitions on exports.

“(B) OPPORTUNITY FOR COMMENT.—If the notice and comment provisions of subchapter II of chapter 5 of title 5, United States Code, are waived under subparagraph (A) with respect to a rule promulgated under this section, the President shall provide interested persons an opportunity to comment on the rule as soon as practicable after the date on which the rule is promulgated.

“(3) ENFORCEMENT AND PENALTY PROVISIONS.—If the President determines to request the Secretary of Commerce to impose specified restrictions pursuant to subsection (c), the enforcement and penalty provisions of the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.) shall apply to any violation of the restrictions.”.

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) CLERICAL AMENDMENT.—The table of contents for the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by inserting after the item relating to section 101 the following:

“102. Domestic use of energy supplies and related materials and equipment.”.

1 (2) CONFORMING AMENDMENT.—Section 101
2 of division O of the Consolidated Appropriations Act,
3 2016 (42 U.S.C. 6212a), is amended by striking
4 subsections (b) through (d).

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