

108TH CONGRESS
1ST SESSION

H. R. 2136

To amend the Clean Air Act to prohibit the use of methyl tertiary butyl ether as a gasoline additive and to repeal the oxygenate requirement for reformulated gasoline, to provide funding for the clean up of underground storage tanks, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2003

Mr. KING of New York (for himself and Mr. ENGEL) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Clean Air Act to prohibit the use of methyl tertiary butyl ether as a gasoline additive and to repeal the oxygenate requirement for reformulated gasoline, to provide funding for the clean up of underground storage tanks, 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. MTBE PROHIBITION.**

4 (a) MTBE PROHIBITION.—Section 211(c) of the
5 Clean Air Act (42 U.S.C. 7545(c)) is amended by adding
6 at the end the following:

7 “(5) PROHIBITION ON USE OF MTBE.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (C), not later than 6 months after the
3 date of enactment of this paragraph, the use of
4 methyl tertiary butyl ether in motor vehicle fuel
5 in any State is prohibited.

6 “(B) REGULATIONS.—The Administrator
7 shall promulgate regulations to carry out the
8 prohibition set forth in subparagraph (A).

9 “(C) TRACE QUANTITIES.—In carrying out
10 subparagraph (A), the Administrator may allow
11 trace quantities of methyl tertiary butyl ether,
12 not to exceed 0.5 percent by volume, to be
13 present in motor vehicle fuel in cases that the
14 Administrator determines to be appropriate.”.

15 (b) NO EFFECT ON LAW CONCERNING STATE AU-
16 THORITY.—The amendments made by subsection (a) have
17 no effect on the law in effect on the day before the date
18 of enactment of this Act regarding the authority of States
19 to limit the use of methyl tertiary butyl ether in motor
20 vehicle fuel.

21 **SEC. 2. ELIMINATION OF OXYGEN CONTENT REQUIREMENT**
22 **FOR REFORMULATED GASOLINE.**

23 (a) REPEAL.—Section 211(k) of the Clean Air Act
24 (42 U.S.C. 7545(k)) is amended—

25 (1) in paragraph (2)—

1 (A) in the second sentence of subpara-
2 graph (A), by striking “(including the oxygen
3 content requirement contained in subparagraph
4 (B))”;

5 (B) by striking subparagraph (B); and

6 (C) by redesignating subparagraphs (C)
7 and (D) as subparagraphs (B) and (C), respec-
8 tively;

9 (2) in paragraph (3)(A), by striking clause (v);
10 (3) in paragraph (7)—

11 (A) in subparagraph (A)—

12 (i) by striking clause (i); and

13 (ii) by redesignating clauses (ii) and

14 (iii) as clauses (i) and (ii), respectively;

15 and

16 (B) in subparagraph (C)—

17 (i) by striking clause (ii); and

18 (ii) by redesignating clause (iii) as

19 clause (ii).

20 (b) EFFECTIVE DATE.—The amendments made by
21 subsection (a) shall take effect on the date of enactment
22 of this Act.

23 (c) MAINTENANCE OF TOXIC AIR POLLUTANT EMIS-
24 SION REDUCTIONS.—Section 211(k)(1) of the Clean Air
25 Act (42 U.S.C. 7545(k)(1)) is amended as follows:

1 (1) By striking “Within 1 year after the enact-
2 ment of the Clean Air Act Amendments of 1990,”
3 and inserting the following:

4 “(A) IN GENERAL.—Not later than No-
5 vember 15, 1991,”.

6 (2) By adding at the end the following:

7 “(B) MAINTENANCE OF TOXIC AIR POL-
8 LUTANT EMISSIONS REDUCTIONS FROM REFOR-
9 MULATED GASOLINE.—

10 “(i) DEFINITIONS.—In this subpara-
11 graph the term ‘PADD’ means a Petro-
12 leum Administration for Defense District.

13 “(ii) REGULATIONS REGARDING EMIS-
14 SIONS OF TOXIC AIR POLLUTANTS.—Not
15 later than 270 days after the date of en-
16 actment of this subparagraph the Adminis-
17 trator shall establish, for each refinery or
18 importer, standards for toxic air pollutants
19 from use of the reformulated gasoline pro-
20 duced or distributed by the refinery or im-
21 porter that maintain the reduction of the
22 average annual aggregate emissions of
23 toxic air pollutants for reformulated gaso-
24 line produced or distributed by the refinery
25 or importer during calendar years 1999

1 and 2000, determined on the basis of data
2 collected by the Administrator with respect
3 to the refinery or importer.

4 “(iii) STANDARDS APPLICABLE TO
5 SPECIFIC REFINERIES OR IMPORTERS.—

6 “(I) APPLICABILITY OF STAND-
7 ARDS.—For any calendar year, the
8 standards applicable to a refinery or
9 importer under clause (ii) shall apply
10 to the quantity of gasoline produced
11 or distributed by the refinery or im-
12 porter in the calendar year only to the
13 extent that the quantity is less than
14 or equal to the average annual quan-
15 tity of reformulated gasoline produced
16 or distributed by the refinery or im-
17 porter during calendar years 1999
18 and 2000.

19 “(II) APPLICABILITY OF OTHER
20 STANDARDS.—For any calendar year,
21 the quantity of gasoline produced or
22 distributed by a refinery or importer
23 that is in excess of the quantity sub-
24 ject to subclause (I) shall be subject
25 to standards for toxic air pollutants

promulgated under subparagraph (A)
and paragraph (3)(B).

“(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

“(v) REGIONAL PROTECTION OF
TOXICS REDUCTION BASELINES.—

“(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

“(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 1999 and 2000; and

“(bb) the reduction of the average annual aggregate emis-

sions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

“(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 1999 and 2000, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

“(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

1 “(bb) promulgate revisions
2 to the regulations promulgated
3 under clause (ii), to take effect
4 not earlier than 180 days but not
5 later than 270 days after the
6 date of promulgation, to provide
7 that, notwithstanding clause
8 (iii)(II), all reformulated gasoline
9 produced or distributed at each
10 refinery or importer shall meet
11 the standards applicable under
12 clause (ii) not later than April 1
13 of the year following the report
14 in subclause (II) and for subse-
15 quent years.

16 “(vi) REGULATIONS TO CONTROL
17 HAZARDOUS AIR POLLUTANTS FROM
18 MOTOR VEHICLES AND MOTOR VEHICLE
19 FUELS.—Not later than July 1, 2004, the
20 Administrator shall promulgate final regu-
21 lations to control hazardous air pollutants
22 from motor vehicles and motor vehicle
23 fuels, as provided for in section 80.1045 of
24 title 40, Code of Federal Regulations (as

1 in effect on the date of enactment of this
2 subparagraph).”.

3 (d) CONSOLIDATION IN REFORMULATED GASOLINE
4 REGULATIONS.—Not later than 180 days after the date
5 of enactment of this Act, the Administrator of the Envi-
6 ronmental Protection Agency shall revise the reformulated
7 gasoline regulations under subpart D of part 80 of title
8 40, Code of Federal Regulations, to consolidate the regula-
9 tions applicable to VOC–Control Regions 1 and 2 under
10 section 80.41 of that title by eliminating the less stringent
11 requirements applicable to gasoline designated for VOC–
12 Control Region 2 and instead applying the more stringent
13 requirements applicable to gasoline designated for VOC–
14 Control Region 1.

15 (e) SAVINGS CLAUSE.—Nothing in this section is in-
16 tended to affect or prejudice either any legal claims or ac-
17 tions with respect to regulations promulgated by the Ad-
18 ministrator of the Environmental Protection Agency prior
19 to enactment of this Act regarding emissions of toxic air
20 pollutants from motor vehicles or the adjustment of stand-
21 ards applicable to a specific refinery or importer made
22 under such prior regulations and the Administrator may
23 apply such adjustments to the standards applicable to
24 such refinery or importer under clause (iii)(I) of section
25 211(k)(1)(B) of the Clean Air Act, except that—

1 (1) the Administrator shall revise such adjust-
2 ments to be based only on calendar years 1999–
3 2000; and

4 (2) for adjustments based on toxic air pollutant
5 emissions from reformulated gasoline significantly
6 below the national annual average emissions of toxic
7 air pollutants from all reformulated gasoline, the
8 Administrator may revise such adjustments to take
9 account of the scope of any lawful and enforceable
10 Federal or State prohibition on methyl tertiary butyl
11 ether imposed after the effective date of the enact-
12 ment of this paragraph, except that any such adjust-
13 ment shall require such refiner or importer, to the
14 greatest extent practicable, to maintain the reduc-
15 tion achieved during calendar year 1999–2000 in the
16 average annual aggregate emissions of toxic air pol-
17 lutants from reformulated gasoline produced or dis-
18 tributed by the refinery or importer. Any such ad-
19 justment shall not be made at a level below the aver-
20 age percentage of reductions of emissions of toxic air
21 pollutants for reformulated gasoline supplied to
22 PADD I during calendar years 1999–2000.

23 **SEC. 3. FUNDING FOR MTBE CONTAMINATION.**

24 Notwithstanding any other provision of law, there is
25 authorized to be appropriated to the Administrator of the

1 Environmental Protection Agency from the Leaking Un-
2 derground Storage Tank Trust Fund not more than
3 \$850,000,000 for the fiscal year period of fiscal years
4 2004 through 2008.

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