

112TH CONGRESS  
1ST SESSION

# H. R. 404

To amend the Internal Revenue Code of 1986 to extend and modify the credits for alcohol used as a fuel, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2011

Mr. FORTENBERRY introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to extend and modify the credits for alcohol used as a fuel, 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 “Renewable Fuels for  
5 America’s Future Act of 2011”.

1 **SEC. 2. REDUCTION IN CREDIT FOR FUEL REQUIRED TO**  
2 **MEET RENEWABLE FUEL OBLIGATION.**

3 (a) IN GENERAL.—Subsection (d) of section 40 of the  
4 Internal Revenue Code of 1986 is amended by adding at  
5 the end the following new paragraph:

6 “(8) ALCOHOL REQUIRED TO MEET RENEW-  
7 ABLE FUEL OBLIGATION NOT TAKEN INTO AC-  
8 COUNT.—

9 “(A) IN GENERAL.—Alcohol used to meet  
10 the renewable fuel obligation applicable to the  
11 taxpayer shall not be taken into account for  
12 purposes of determining a credit under this sec-  
13 tion.

14 “(B) RENEWABLE FUEL OBLIGATION.—  
15 For purposes of subparagraph (A), the term  
16 ‘renewable fuel obligation’ means the renewable  
17 fuel obligation determined under section  
18 211(o)(3) of the Clean Air Act (42 U.S.C.  
19 7545(o)(3)).

20 “(C) USE OF RINS.—Determinations for  
21 purposes of subparagraph (A) shall be made  
22 through the use of renewable identification  
23 numbers received from the taxpayer by the Ad-  
24 ministrator of the Environmental Protection  
25 Agency pursuant to regulations issued under  
26 section 211(o) of such Act.”.

1 (b) EXCISE TAX CREDIT AND PAYMENT.—

2 (1) EXCISE TAX.—Subsection (b) of section  
3 6426 of such Code, as amended by section 4 of this  
4 Act, is amended by redesignating paragraph (6) as  
5 paragraph (7) and by inserting after paragraph (5)  
6 the following new paragraph:

7 “(6) ALCOHOL REQUIRED TO MEET RENEW-  
8 ABLE FUEL OBLIGATION NOT TAKEN INTO AC-  
9 COUNT.—

10 “(A) IN GENERAL.—Alcohol used to meet  
11 the renewable fuel obligation applicable to the  
12 taxpayer shall not be taken into account for  
13 purposes of determining a credit under this  
14 subsection.

15 “(B) RENEWABLE FUEL OBLIGATION.—  
16 For purposes of subparagraph (A), the term  
17 ‘renewable fuel obligation’ means the renewable  
18 fuel obligation determined under section  
19 211(o)(3) of the Clean Air Act (42 U.S.C.  
20 7545(o)(3)).

21 “(C) USE OF RINS.—Determinations for  
22 purposes of subparagraph (A) shall be made  
23 through the use of renewable identification  
24 numbers received from the taxpayer by the Ad-  
25 ministrator of the Environmental Protection

1 Agency pursuant to regulations issued under  
2 section 211(o) of such Act.”.

3 (2) PAYMENT.—Paragraph (2) of section  
4 6427(e) of such Code is amended by adding at the  
5 end the following: “For purposes of this subsection,  
6 alternative fuel shall not include any alcohol used to  
7 meet the renewable fuel obligation (as defined in sec-  
8 tion 6426(e)(6)) applicable to the taxpayer”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to fuel produced or sold after De-  
11 cember 31, 2010.

12 **SEC. 3. EXTENSION OF INCOME TAX CREDIT FOR ALCOHOL**  
13 **USED AS FUEL.**

14 (a) IN GENERAL.—Paragraph (1) of section 40(e) of  
15 the Internal Revenue Code of 1986 is amended—

16 (1) by striking “December 31, 2011” in sub-  
17 paragraph (A) and inserting “December 31, 2016”,  
18 and

19 (2) by striking “January 1, 2012” in subpara-  
20 graph (B) and inserting “January 1, 2017”.

21 (b) CELLULOSIC BIOFUEL.—Subparagraph (H) of  
22 section 40(b)(6) of such Code is amended by striking  
23 “January 1, 2013” and inserting “January 1, 2017”.

24 (c) REDUCED AMOUNT FOR ETHANOL BLENDERS.—  
25 Paragraph (2) of section 40(h) of such Code is amended

1 by striking “2011” both places it appears and inserting  
2 “2016”.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect on the date of the enactment  
5 of this Act.

6 **SEC. 4. EXTENSION OF EXCISE TAX CREDIT FOR ALCOHOL**  
7 **USED AS FUEL.**

8 (a) IN GENERAL.—Paragraph (6) of section 6426(b)  
9 of the Internal Revenue Code of 1986 is amended by strik-  
10 ing “December 31, 2011” and inserting “December 31,  
11 2016”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 this section shall take effect on the date of the enactment  
14 of this Act.

15 **SEC. 5. EXTENSION OF PAYMENT FOR ALCOHOL FUEL MIX-**  
16 **TURE.**

17 (a) IN GENERAL.—Subparagraph (A) of section  
18 6427(e)(6) of the Internal Revenue Code of 1986 is  
19 amended by striking “December 31, 2011” and inserting  
20 “December 31, 2016”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 this subsection shall apply to sales and uses after Decem-  
23 ber 31, 2010.

1 **SEC. 6. EXTENSION OF ADDITIONAL DUTIES ON ETHANOL.**

2 Headings 9901.00.50 and 9901.00.52 of the Har-  
 3 monized Tariff Schedule of the United States are each  
 4 amended in the effective period column by striking “1/1/  
 5 2012” and inserting “1/1/2017”.

6 **SEC. 7. ENSURING THE AVAILABILITY OF DUAL FUELED**  
 7 **AUTOMOBILES AND LIGHT DUTY TRUCKS.**

8 (a) IN GENERAL.—Chapter 329 of title 49, United  
 9 States Code, is amended by inserting after section 32902  
 10 the following:

11 **“§ 32902A. Requirement to manufacture dual fueled**  
 12 **automobiles and light duty trucks**

13 “(a) IN GENERAL.—For each model year listed in the  
 14 following table, each manufacturer shall ensure that the  
 15 percentage of automobiles and light duty trucks manufac-  
 16 tured by the manufacturer for sale in the United States  
 17 that are dual fueled automobiles and light duty trucks is  
 18 not less than the percentage set forth for that model year  
 19 in the following table:

<b>“Model Year</b>	<b>Percentage</b>
Model years 2013 and 2014 .....	50 percent
Model year 2015 and each subsequent model year .....	90 percent.

20 “(b) EXCEPTION.—Subsection (a) shall not apply to  
 21 automobiles or light duty trucks that operate only on elec-  
 22 tricity.”.

23 (b) CLERICAL AMENDMENT.—The table of sections  
 24 for chapter 329 of title 49, United States Code, is amend-

1 ed by inserting after the item relating to section 32902  
2 the following:

“32902A. Requirement to manufacture dual fueled automobiles and light duty trucks.”.

3 (c) RULEMAKING.—Not later than 1 year after the  
4 date of the enactment of this section, the Secretary of  
5 Transportation shall prescribe regulations to carry out the  
6 amendments made by this section.

7 **SEC. 8. BLENDER PUMP PROMOTION.**

8 (a) BLENDER PUMP GRANT PROGRAM.—

9 (1) DEFINITIONS.—In this subsection:

10 (A) BLENDER PUMP.—The term “blender  
11 pump” means an automotive fuel dispensing  
12 pump capable of dispensing at least 3 different  
13 blends of gasoline and ethanol, as selected by  
14 the pump operator, including blends ranging  
15 from 0 percent ethanol to 85 percent denatured  
16 ethanol, as determined by the Secretary.

17 (B) E-85 FUEL.—The term “E-85 fuel”  
18 means a blend of gasoline approximately 85  
19 percent of the content of which is ethanol.

20 (C) ETHANOL FUEL BLEND.—The term  
21 “ethanol fuel blend” means a blend of gasoline  
22 and ethanol, with a minimum of 0 percent and  
23 maximum of 85 percent of the content of which  
24 is denatured ethanol.

1 (D) SECRETARY.—The term “Secretary”  
2 means the Secretary of Energy.

3 (2) GRANTS.—The Secretary shall make grants  
4 under this subsection to eligible facilities (as deter-  
5 mined by the Secretary) to pay the Federal share  
6 of—

7 (A) installing blender pump fuel infra-  
8 structure, including infrastructure necessary—

9 (i) for the direct retail sale of ethanol  
10 fuel blends (including E-85 fuel), includ-  
11 ing blender pumps and storage tanks; and

12 (ii) to directly market ethanol fuel  
13 blends (including E-85 fuel) to gas retail-  
14 ers, including inline blending equipment,  
15 pumps, storage tanks, and loadout equip-  
16 ment; and

17 (B) providing subgrants to direct retailers  
18 of ethanol fuel blends (including E-85 fuel) for  
19 the purpose of installing fuel infrastructure for  
20 the direct retail sale of ethanol fuel blends (in-  
21 cluding E-85 fuel), including blender pumps  
22 and storage tanks.

23 (3) FEDERAL SHARE.—The Federal share of  
24 the cost of a project carried out under this sub-



1 section shall be 50 percent of the total cost of the  
2 project.

3 (4) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated to the Sec-  
5 retary to carry out this subsection, to remain avail-  
6 able until expended—

7 (A) \$50,000,000 for fiscal year 2012;

8 (B) \$100,000,000 for fiscal year 2013;

9 (C) \$200,000,000 for fiscal year 2014;

10 (D) \$300,000,000 for fiscal year 2015;

11 and

12 (E) \$350,000,000 for fiscal year 2016.

13 (b) INSTALLATION OF BLENDER PUMPS BY MAJOR  
14 FUEL DISTRIBUTORS AT OWNED STATIONS AND BRAND-  
15 ED STATIONS.—Section 211(o) of the Clean Air Act (42  
16 U.S.C. 7545(o)) is amended by adding at the end the fol-  
17 lowing:

18 “(13) INSTALLATION OF BLENDER PUMPS BY  
19 MAJOR FUEL DISTRIBUTORS AT OWNED STATIONS  
20 AND BRANDED STATIONS.—

21 “(A) DEFINITIONS.—In this paragraph:

22 “(i) E-85 FUEL.—The term ‘E-85  
23 fuel’ means a blend of gasoline approxi-  
24 mately 85 percent of the content of which  
25 is ethanol.

1           “(ii) ETHANOL FUEL BLEND.—The  
2           term ‘ethanol fuel blend’ means a blend of  
3           gasoline and ethanol, with a minimum of 0  
4           percent and maximum of 85 percent of the  
5           content of which is denatured ethanol.

6           “(iii) MAJOR FUEL DISTRIBUTOR.—

7                   “(I) IN GENERAL.—The term  
8                   ‘major fuel distributor’ means any  
9                   person that owns a refinery and di-  
10                  rectly markets the output of a refin-  
11                  ery.

12                   “(II) EXCLUSION.—The term  
13                   ‘major fuel distributor’ does not in-  
14                   clude any person that owns less than  
15                   50 retail fueling stations.

16           “(iv) SECRETARY.—The term ‘Sec-  
17           retary’ means the Secretary of Energy,  
18           acting in consultation with the Adminis-  
19           trator and the Secretary of Agriculture.

20           “(B) REGULATIONS.—The Secretary shall  
21           promulgate regulations to ensure that each  
22           major fuel distributor that sells or introduces  
23           gasoline into commerce in the United States  
24           through majority-owned stations or branded  
25           stations installs or otherwise makes available 1

1 or more blender pumps that dispense E-85 fuel  
 2 and ethanol fuel blends (including any other  
 3 equipment necessary, such as tanks, to ensure  
 4 that the pumps function properly) for a period  
 5 of not less than 5 years at not less than the ap-  
 6 plicable percentage of the majority-owned sta-  
 7 tions and the branded stations of the major fuel  
 8 distributor specified in subparagraph (C).

9 “(C) APPLICABLE PERCENTAGE.—For the  
 10 purpose of subparagraph (B), the applicable  
 11 percentage of the majority-owned stations and  
 12 the branded stations shall be determined in ac-  
 13 cordance with the following table:

**“Applicable percentage of  
 majority-owned stations  
 and branded stations**

<b>Calendar year:</b>	<b>Percent:</b>
2012 .....	10
2014 .....	20
2016 .....	35
2018 and each calendar year thereafter .....	50.

14 “(D) GEOGRAPHIC DISTRIBUTION.—

15 “(i) IN GENERAL.—Subject to clause  
 16 (ii), in promulgating regulations under  
 17 subparagraph (B), the Secretary shall en-  
 18 sure that each major fuel distributor de-  
 19 scribed in that subparagraph installs or  
 20 otherwise makes available 1 or more blend-  
 21 er pumps that dispense E-85 fuel and eth-

1           anol fuel blends at not less than a min-  
2           imum percentage (specified in the regula-  
3           tions) of the majority-owned stations and  
4           the branded stations of the major fuel dis-  
5           tributors in each State.

6           “(ii) REQUIREMENT.—In specifying  
7           the minimum percentage under clause (i),  
8           the Secretary shall ensure that each major  
9           fuel distributor installs or otherwise makes  
10          available 1 or more blender pumps de-  
11          scribed in that clause in each State in  
12          which the major fuel distributor operates.

13          “(E) FINANCIAL RESPONSIBILITY.—In  
14          promulgating regulations under subparagraph  
15          (B), the Secretary shall ensure that each major  
16          fuel distributor described in that subparagraph  
17          assumes full financial responsibility for the  
18          costs of installing or otherwise making available  
19          the blender pumps described in that subpara-  
20          graph and any other equipment necessary (in-  
21          cluding tanks) to ensure that the pumps func-  
22          tion properly.

23          “(F) PRODUCTION CREDITS FOR EXCEED-  
24          ING BLENDER PUMPS INSTALLATION REQUIRE-  
25          MENT.—

1           “(i) EARNING AND PERIOD FOR AP-  
2           PLYING CREDITS.—If the percentage of the  
3           majority-owned stations and the branded  
4           stations of a major fuel distributor at  
5           which the major fuel distributor installs  
6           blender pumps in a particular calendar  
7           year exceeds the percentage required under  
8           subparagraph (C), the major fuel dis-  
9           tributor shall earn credits under this para-  
10          graph, which may be applied to any of the  
11          3 consecutive calendar years immediately  
12          after the calendar year for which the cred-  
13          its are earned.

14           “(ii) TRADING CREDITS.—Subject to  
15          clause (iii), a major fuel distributor that  
16          has earned credits under clause (i) may  
17          sell the credits to another major fuel dis-  
18          tributor to enable the purchaser to meet  
19          the requirement under subparagraph (C).

20           “(iii) EXCEPTION.—A major fuel dis-  
21          tributor may not use credits purchased  
22          under clause (ii) to fulfill the geographic  
23          distribution requirement in subparagraph  
24          (D).”.

○