

118TH CONGRESS  
1ST SESSION

# S. 2707

To amend the Clean Air Act with respect to the ethanol waiver for Reid Vapor Pressure under that Act, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

Mrs. FISCHER (for herself, Ms. DUCKWORTH, Mrs. CAPITO, Mr. RICKETTS, Mr. THUNE, Mr. ROUNDS, Mr. MARSHALL, Ms. ERNST, Mr. GRASSLEY, Mr. MORAN, Mr. HOEVEN, Mrs. HYDE-SMITH, Mr. WICKER, and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Clean Air Act with respect to the ethanol waiver for Reid Vapor Pressure under that Act, 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 “Nationwide Consumer  
5 and Fuel Retailer Choice Act of 2023”.

6 **SEC. 2. ETHANOL WAIVER.**

7 (a) EXISTING WAIVERS.—Section 211(f)(4) of the  
8 Clean Air Act (42 U.S.C. 7545(f)(4)) is amended—

1 (1) by striking “(4) The Administrator, upon”  
2 and inserting the following:

3 “(4) WAIVERS.—

4 “(A) IN GENERAL.—The Administrator,  
5 on”;

6 (2) in subparagraph (A) (as so designated)—

7 (A) in the first sentence—

8 (i) by striking “of this subsection”  
9 each place it appears; and

10 (ii) by striking “if he determines” and  
11 inserting “if the Administrator deter-  
12 mines”; and

13 (B) in the second sentence—

14 (i) by striking “such an application”  
15 and inserting “an application described in  
16 subparagraph (A)”; and

17 (ii) by striking “The Administrator”  
18 and inserting the following:

19 “(B) FINAL ACTION.—The Adminis-  
20 trator”; and

21 (3) by adding at the end the following:

22 “(C) REID VAPOR PRESSURE.—A fuel or  
23 fuel additive may be introduced into commerce  
24 if—

1           “(i)(I) the Administrator determines  
2           that the fuel or fuel additive is substan-  
3           tially similar to a fuel or fuel additive uti-  
4           lized in the certification of any model year  
5           vehicle pursuant to paragraph (1)(A); or

6           “(II) the fuel or fuel additive has been  
7           granted a waiver under subparagraph (A)  
8           and meets all of the conditions of that  
9           waiver other than any limitation of the  
10          waiver with respect to the Reid Vapor  
11          Pressure of the fuel or fuel additive; and

12          “(ii) the fuel or fuel additive meets all  
13          other applicable Reid Vapor Pressure re-  
14          quirements under subsection (h).”.

15          (b) REID VAPOR PRESSURE LIMITATION.—Section  
16          211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is  
17          amended—

18               (1) by striking “vapor pressure” each place it  
19               appears and inserting “Vapor Pressure”;

20               (2) in paragraph (4), in the matter preceding  
21               subparagraph (A), by striking “10 percent” and in-  
22               serting “10 to 15 percent”; and

23               (3) in paragraph (5)(A)—

24                       (A) by striking “Upon notification, accom-  
25                       panied by” and inserting “On receipt of a noti-

1           fication that is submitted before January 1,  
 2           2022, or after the date of enactment of the Na-  
 3           tionwide Consumer and Fuel Retailer Choice  
 4           Act of 2023, and is accompanied by appro-  
 5           priate”; and

6                       (B) by striking “10 percent” and inserting  
 7           “10 to 15 percent”.

8   **SEC. 3. GENERATION OF CREDITS BY SMALL REFINERIES**  
 9                       **UNDER THE RENEWABLE FUEL PROGRAM.**

10          Section 211(o)(9) of the Clean Air Act (42 U.S.C.  
 11   7545(o)(9)) is amended by adding at the end the fol-  
 12   lowing:

13                       “(E) CREDITS GENERATED FOR 2016-2018  
 14           COMPLIANCE YEARS.—

15                       “(i) CREDITS GENERATED FOR COM-  
 16           PLIANCE YEAR 2018.—For any small refin-  
 17           ery—

18                               “(I) that submitted a petition  
 19                               under subparagraph (B)(i) for compli-  
 20                               ance year 2018 by September 1,  
 21                               2019;

22                               “(II) that retired credits gen-  
 23                               erated for compliance year 2018 as  
 24                               part of the compliance demonstration

1 of the small refinery for compliance  
2 year 2018 by March 31, 2019; and

3 “(III) for which—

4 “(aa) the petition remained  
5 outstanding as of December 1,  
6 2022; or

7 “(bb) the Administrator de-  
8 nied the petition as of July 1,  
9 2022, and has not returned the  
10 retired credits as of December 1,  
11 2022,

12 the credits shall be—

13 “(AA) returned to the small re-  
14 finery and, notwithstanding paragraph  
15 (5)(C), deemed eligible for future  
16 compliance years; or

17 “(BB) applied as a credit in the  
18 EPA Moderated Transaction System  
19 (EMTS) account of the small refinery.

20 “(ii) CREDITS GENERATED FOR COM-  
21 PLIANCE YEARS 2016 AND 2017.—For any  
22 small refinery that retired credits gen-  
23 erated for compliance years 2016 or 2017  
24 and submitted a petition under subpara-  
25 graph (B)(i) for that compliance year that

1                   remained outstanding as of December 1,  
2                   2022, those generated credits shall be—  
3                   “(I) returned to the small refin-  
4                   ery and, notwithstanding paragraph  
5                   (5)(C), deemed eligible for future  
6                   compliance years; or  
7                   “(II) applied as a credit in the  
8                   EPA Moderated Transaction System  
9                   (EMTS) account of the small refin-  
10                  ery.”.

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