

ENERGY ALERT

ENERGY POLICY ACT OF 2005



TITLE VII - VEHICLES AND FUELS

The following is a brief review and summary of some of the major provisions in Title VII, Vehicles and Fuels, of the conference report on H.R. 6, the Energy Policy Act of 2005 (Act). Following the summary of these provisions is a review of certain key provisions in the Tax Incentives section of the bill (Title XIII) that relate to vehicles and fuels.

SUBTITLE A: EXISTING PROGRAMS

Use of Alternative Fuels by Dual-Fueled Vehicles. “Dual-fueled” vehicles acquired under the Energy Policy and Conservation Act (EPAAct) must be operated on alternative fuels.

Waivers. This subtitle authorizes the secretary of Energy to grant waivers to the fuel-use requirement on the basis that the alternative fuel is not reasonably available or the cost of the alternative is unreasonably more expensive than gasoline as determined by the secretary of Energy. Vehicle fleet owners also may petition the secretary for a waiver of the fuel-use requirements, provided they are able to demonstrate reduced annual fuel consumption equal to: (1) the reduction in consumption of petroleum that would result from 100 percent cumulative compliance with the fuel use requirement or (2) in the case of vehicle fleets of a state entity, the reduction to the annual consumption by the state entity of alternative fuels if all the cumulative alternative-fuel vehicles of the state entity were to use alternative fuel 100 percent of the time.

Study. In addition, the secretary of Energy is directed to study the effects of the EPAAct on the development of alternative-fuel vehicle technology, availability of the technology in the marketplace and cost of such vehicles.

Joint Flexible-Fuel/Hybrid Vehicle Commercialization Initiative. The secretary of Energy must establish a program to improve technologies for the commercialization of combination hybrid/flexible-fuel vehicles or plug-in hybrid flexible-fuel vehicles through grants to technologies that achieve the greatest reduction in miles per gallon of petroleum fuel consumption, achieve not less than 250 miles per gallon of petroleum fuel consumption and have the greatest potential of commercialization to the general public within five years. Within 90 days of enactment, the secretary of Energy must publish in the Federal Register procedures to verify the vehicles to be demonstrated and to administer the grants and then report back to Congress within 260 days of enactment regarding program progress. Subtitle A authorizes \$40 million for the program between fiscal years 2006 and 2009.

SUBTITLE B: HYBRID VEHICLES, ADVANCED VEHICLES AND FUEL CELL BUSES

Hybrid Vehicles. The secretary of Energy must accelerate efforts to improve batteries and other rechargeable storage systems, power electronics, hybrid systems integration and other technologies for use in hybrid vehicles.

Efficient Hybrid and Advanced Diesel Vehicles. The secretary of Energy must establish a program to encourage domestic production and sales of efficient hybrid and advanced diesel vehicles, including grants to automobile manufacturers to encourage such production. Subtitle B authorizes such sums as necessary to implement this program between fiscal years 2006 and 2015.

Advanced Vehicles. A \$15 million competitive grant pilot program will be established and administered by the Department of Energy to provide not more than 30 geographically dispersed project grants to state and local governments and transportation authorities for the acquisition of alternative fueled, hybrid, fuel cell and ultra-low-sulfur diesel vehicles and/or the installation or acquisition of infrastructure to support such vehicles.

Fuel Cell Buses. The departments of Energy and Transportation shall establish a transit bus demonstration program to make competitive, merit-based awards for five-year projects to demonstrate fuel cell transit buses in five geographically dispersed locations. This subtitle authorizes \$100 million to implement the program between fiscal years 2006 and 2010.

SUBTITLE C: CLEAN SCHOOL BUSES

Clean School Buses. Two new “Clean School Bus” programs are authorized to retrofit existing diesel buses with new pollution-control technology and to replace older school buses with clean alternative fueled and ultra-low-sulfur diesel-fueled buses. Subtitle C authorizes \$110 million to implement the program between fiscal years 2006 and 2007 and such sums as necessary to implement the program between fiscal years 2008 and 2010.

Diesel Truck Retrofit and Fleet-Modernization Program. The secretary of Energy and administrator of the Environmental Protection Agency (EPA) shall establish a competitive grant program for public agencies to install retrofit technologies for diesel truck fleets, with preference to ports and other major hauling operations as well as to technologies that achieve the greatest emissions reductions and utilize EPA- or California Air Resources Board-verified emissions control retrofit technologies. Subtitle C authorizes \$100 million to implement the grant program between fiscal years 2006 and 2008 and such sums as necessary to implement the program between fiscal years 2009 and 2010.

Fuel-Cell School Buses. The secretary of Energy must establish a program for entering into cooperative agreements with private-sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses. This subtitle authorizes \$25 million to implement the program between fiscal years 2006 and 2009.

SUBTITLE D: MISCELLANEOUS

This subtitle of the Act includes:

- funding for a federal-state/public-private railroad efficiency center
- a provision for the EPA to review the mobile emission-reduction credit-trading program
- a study of aviation fuel conservation
- a provision to accelerate the Department of Energy’s efforts to improve diesel combustion and after-treatment technologies for use in diesel-fueled motor vehicles, such that the technologies will meet Tier 2 standards not later than 2010
- a “conserve by bicycling” program
- a program to reduce engine idling of heavy-duty vehicles

- a program to include biodiesel testing in advanced diesel engine and fuel-system technology
- a provision enabling states to enact regulations to allow alternative-fuel vehicles to use high-occupancy vehicle (HOV) lanes regardless of the number of passengers carried
- a program to develop ultra-efficient aircraft engine technology

SUBTITLE E: AUTOMOBILE EFFICIENCY – CAFE

Subtitle E increases funding to \$17.5 million over four years (2006-2010) for the Department of Transportation to continue its work on improving Corporate Average Fuel Economy (CAFE) standards; requires the National Highway Traffic Safety Administration (NHTSA) to consider the impact on vehicle safety and U.S. automobile industry jobs when setting CAFE standards; and directs NHTSA to study alternatives to the CAFE program and the feasibility and effects of reducing by model year 2012, by a significant percentage, the amount of fuel consumed by automobiles.

SUBTITLE F: FEDERAL AND STATE PROCUREMENT

This subtitle authorizes \$105 million between fiscal years 2008 and 2010, and such sums as necessary between fiscal years 2011 and 2015, for the secretary of Energy, in cooperation with a hydrogen fuel cell task force and technical advisory committee established by the Act, (1) to establish a program to stimulate federal and state procurement of fuel cell vehicles and hydrogen energy systems, (2) to support development of technologies relating to fuel cell vehicles, public refueling stations and hydrogen energy systems and (3) to require the federal government to adopt those technologies as soon as practicable in conjunction with private industry partners. Subtitle F also authorizes \$345 million between fiscal years 2006 and 2010, and such sums as necessary between fiscal years 2011 and 2015, for the secretary of Energy, in cooperation with the hydrogen fuel cell task force and technical advisory committee, to establish a program to stimulate acceptance by the market of stationary, portable and micro fuel cells and to support development of related technologies.

SUBTITLE G: DIESEL EMISSIONS REDUCTION

This subtitle authorizes \$1 billion between fiscal years 2007 and 2011 for the EPA administrator to provide competitive grants and low-cost revolving loans to regional, state, local or tribal agency or port authority entities and nonprofit organizations to achieve significant reductions in diesel emissions, giving priority to projects that maximize public health benefits, are cost-effective and serve areas with the highest population density, have poor air quality, receive a disproportionate quantity of air pollution from diesel fleets, and use a community-based multi-stakeholder collaborative process to reduce toxic emissions. Subtitle G also directs the EPA administrator to submit a report to Congress evaluating the program within one year after funds are appropriated to implement the program and biennially thereafter.

TITLE XIII, SUBTITLE D: ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

Alternative Motor Vehicle Credit. This subtitle provides tax credits for the purchase of fuel cell, advanced lean-burn diesel, hybrid and other alternative-fuel motor vehicles placed in service after December 31, 2005. The size of the credit in each category varies depending on the weight class of the vehicle and the fuel economy as compared with the 2002 model year city fuel economy for each vehicle class. For purposes of the new qualified hybrid and advanced lean-burn technology vehicle credit, a taxpayer may claim the full credit up to the end of the first quarter in which the manufacturer records its sale of the 60,000th vehicle, after which the amount is phased out 50 percent for the first two calendar quarters of the phase-out period, 25 percent for the third and fourth calendar quarters of the phase-out period, and 0 percent for each calendar quarter thereafter. The credit sunsets as follows: (1) December 31, 2014, for qualified fuel cell vehicles, (2) December 31, 2010, for advanced lean-burn vehicles, new hybrid vehicles with a gross vehicle

weight of not more than 8,500 pounds, and new qualified alternative-fuel vehicles and (3) December 31, 2009, for hybrid vehicles with a gross vehicle weight over 8,500 pounds.

Alternative-Fuel Vehicle Refueling Property Credit. This subtitle also provides a credit equal to 30 percent of the cost of any qualified alternative-fuel vehicle refueling property. The credit is limited to \$30,000 for property subject to a depreciation allowance and \$1,000 in any other case. To qualify, 85 percent of the fuel volume at such refueling property must consist of one or more of ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas or hydrogen, or any mixture of biodiesel and diesel fuel.

Reduced Motor Fuel Excise Tax on Certain Mixtures of Diesel Fuel. A 19.7 cents per gallon tax rate is established for diesel fuel blended with water into a diesel/water emulsion fuel to reflect the Btu content per gallon resulting from the water. Under current law, diesel fuel is subject to a 24.3 cents per gallon excise tax to finance the Highway Trust Fund, and certain special fuels are provided a special rate based on their energy equivalency. A special rate is established for diesel/water emulsion fuel, where no such rate was provided under current law.

Incentives for Biodiesel. This subtitle extends the existing income tax credit for biodiesel and biodiesel mixtures. The credit is treated as a general business credit and is subject to certain qualifications and limitations.

Small Agri-Biodiesel Producer Credit. This subtitle provides a small agri-biodiesel producer credit for 10 percent of each gallon of qualified agri-biodiesel production. The credit is limited to 15 million gallons of agri-biodiesel production in any taxable year and to producers with a production capacity of not more than 60 million gallons.

Renewable Diesel. This subtitle also treats renewable diesel as biodiesel for purposes of the biodiesel credit under current law, increases that credit for renewable diesel by 50 cents and defines renewable diesel as diesel fuel derived from biomass.

Small Ethanol Producer Credit. The Act changes existing rules governing the small producer ethanol credit. Under current law, a small producer is defined as a person whose production does not exceed 15 million gallons per year and whose production capacity does not exceed 30 million gallons per year. The definition is now expanded to include a person whose production capacity does not exceed 60 million gallons per year.

CONTACT INFORMATION

If you have any questions or would like to learn more about this topic, please contact the partner who normally represents you, or:

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