

117TH CONGRESS
1ST SESSION

H. R. 5089

To promote low-carbon, high-octane fuels, to protect public health, and to improve vehicle efficiency and performance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 24, 2021

Mrs. BUSTOS (for herself, Mr. CLEAVER, Mr. SMITH of Missouri, Mr. COMER, Mr. LAHOOD, and Mrs. AXNE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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

A BILL

To promote low-carbon, high-octane fuels, to protect public health, and to improve vehicle efficiency and performance, 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 “Next Generation Fuels
5 Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) continued increases in new automobile effi-
2 ciency are needed to improve consumer welfare and
3 reduce carbon emissions;

4 (2) the widespread availability of low-carbon,
5 high-octane fuel will allow continued cost-effective
6 improvements in automobile efficiency by enabling
7 increased engine compression ratios;

8 (3) high-octane automobiles and low-carbon
9 fuels are readily available to consumers at little in-
10 cremental cost;

11 (4) ethanol is a cost-effective and low-carbon
12 octane enhancer;

13 (5) the widespread adoption of climate-smart
14 practices and precision technologies by United
15 States corn producers over the past decade have fur-
16 ther reduced the carbon intensity of conventional
17 ethanol;

18 (6) on average, ethanol has been estimated to
19 have lifecycle greenhouse gas emissions that are 46
20 percent lower than average gasoline, with some corn
21 ethanol achieving a 61-percent reduction compared
22 to gasoline; and

23 (7) ethanol has one of the highest blending oc-
24 tane values available in the marketplace.

1 **SEC. 3. HIGH-OCTANE VEHICLES.**

2 Title II of the Clean Air Act (42 U.S.C. 7521 et seq.)
 3 is amended by adding at the end the following:

4 **“PART D—HIGH-OCTANE VEHICLES**

5 **“SEC. 261. DEFINITIONS; APPLICABILITY.**

6 “(a) DEFINITIONS.—In this part:

7 “(1) AUTOMOBILE.—The term ‘automobile’ has
 8 the meaning given to such term in section
 9 32901(a)(3) of title 49, United States Code.

10 “(2) RESEARCH OCTANE NUMBER.—The term
 11 ‘research octane number’ has the meaning given to
 12 such term in section 201 of the Petroleum Mar-
 13 keting Practices Act.

14 “(3) MANUFACTURER.—The term ‘manufac-
 15 turer’ has the meaning given that term in section
 16 216.

17 “(b) APPLICABILITY.—This part applies with respect
 18 to any motor vehicle that is introduced into commerce
 19 that—

20 “(1) is an automobile;

21 “(2) uses gasoline for propulsion or any other
 22 operation of the motor vehicle, including the engine
 23 thereof; and

24 “(3) is a model year 2026 or later motor vehi-
 25 cle.

1 **“SEC. 262. HIGH-OCTANE TEST FUELS.**

2 “(a) E20 CERTIFICATION FUEL.—Except as pro-
3 vided in subsections (b) and (c), manufacturers producing
4 motor vehicles described in section 261(b) shall use a test
5 fuel consisting of gasoline and 19.4 to 20 volume percent
6 ethanol with a minimum 95 research octane number in—

7 “(1) emissions testing and certification under
8 section 206(a) of this Act; and

9 “(2) fuel economy testing and calculation proce-
10 dures under section 32904(c) of title 49, United
11 States Code.

12 “(b) E25 TO E30 CERTIFICATION FUEL.—As an al-
13 ternative to the test fuel described in subsection (a), man-
14 ufacturers producing motor vehicles described in section
15 261(b) may use a test fuel consisting of gasoline and 24.3
16 to 30 volume percent ethanol with a minimum 98 research
17 octane number in—

18 “(1) emissions testing and certification under
19 section 206(a) of this Act; and

20 “(2) fuel economy testing and calculation proce-
21 dures under section 32904(c) of title 49, United
22 States Code.

23 “(c) MODEL YEAR 2031 AND LATER MODEL
24 YEARS.—Notwithstanding subsections (a) and (b), begin-
25 ning in model year 2031, manufacturers of motor vehicles

1 described in section 261(b) shall use the gasoline test fuel
2 described in subsection (b) in—

3 “(1) emissions testing and certification under
4 section 206(a) of this Act; and

5 “(2) fuel economy testing and calculation proce-
6 dures under section 32904(c) of title 49, United
7 States Code.

8 “(d) FORMULATION.—The test fuels described in
9 subsections (a) and (b) shall be produced by adding neat
10 or denatured fuel ethanol to the gasoline criteria emissions
11 test fuel required for use in model year 2020 and later
12 motor vehicles.

13 “(e) TEST FUEL EQUATIONS.—For purposes of—

14 “(1) testing and calculation procedures under
15 section 206(a) of this Act, the emissions of motor
16 vehicles using the test fuels described in subsection
17 (a) or (b) shall be based exclusively on actual meas-
18 ured emissions; and

19 “(2) fuel economy testing and calculation proce-
20 dures under section 32904(c) of title 49, United
21 States Code, the fuel economy of motor vehicles
22 using the test fuels described in subsection (a) or (b)
23 shall be determined on an energy-equivalent basis,
24 calculated by multiplying measured fuel economy by
25 the ratio of—

1 “(A) 114,086 British thermal units per
2 gallon; divided by

3 “(B) the volumetric energy density of the
4 test fuel.

5 **“SEC. 263. HIGH-OCTANE VEHICLES.**

6 “(a) WARRANTY REQUIREMENTS.—Manufacturers of
7 motor vehicles described in section 261(b) shall warrant
8 to the ultimate purchaser and each subsequent purchaser
9 that each such motor vehicle is designed—

10 “(1) for model years 2026 through 2030—

11 “(A) to operate with gasoline containing
12 10 and up to and including 25 percent ethanol
13 by volume; and

14 “(B) to meet the design requirements
15 under subsection (b)(1); and

16 “(2) for model year 2031 and later model
17 years—

18 “(A) to operate with gasoline containing
19 10 and up to and including 30 percent ethanol
20 by volume; and

21 “(B) to meet the design requirements
22 under subsections (b) and (c).

23 “(b) DESIGN REQUIREMENTS BEFORE MODEL YEAR
24 2031.—

1 “(1) MANUFACTURERS.—The manufacturer of
2 a motor vehicle described in section 261(b) shall de-
3 sign each such motor vehicle—

4 “(A) to use gasoline with a 95 research oc-
5 tane number or higher; and

6 “(B) to incorporate such devices or ele-
7 ments of design (including physical or other
8 barriers, devices, or technological systems) as
9 are determined by the Administrator to be—

10 “(i) necessary to prevent the introduc-
11 tion of gasoline with a research octane
12 number that is lower than 95 into such
13 motor vehicle; and

14 “(ii) technically and economically fea-
15 sible.

16 “(2) FUEL RETAILERS.—Any fuel retailer sell-
17 ing gasoline for use in a motor vehicle described in
18 section 261(b) shall incorporate into the retailer’s
19 dispensing equipment such devices or elements of de-
20 sign, including physical or other barriers, devices, or
21 technological systems, as are determined by the Ad-
22 ministrator to be—

23 “(A) necessary to ensure compatibility with
24 the motor vehicle design requirements under
25 paragraph (1); and

1 “(B) technically and economically feasible.

2 “(c) DESIGN REQUIREMENTS FOR MODEL YEAR
3 2031.—

4 “(1) MANUFACTURERS.—Beginning in model
5 year 2031, the manufacturer of a motor vehicle de-
6 scribed in section 261(b) shall design each such
7 motor vehicle—

8 “(A) to use gasoline with a 98 research oc-
9 tane number or higher; and

10 “(B) to incorporate such devices or ele-
11 ments of design (including physical or other
12 barriers, devices, or technological systems) as
13 are determined by the Administrator to be—

14 “(i) necessary to prevent the introduc-
15 tion of gasoline with a research octane
16 number that is lower than 98 into such
17 motor vehicle; and

18 “(ii) technically and economically fea-
19 sible.

20 “(2) FUEL RETAILER.—Any fuel retailer selling
21 gasoline for use in a model year 2031 and later
22 motor vehicle described in section 261(b) shall incor-
23 porate into the retailer’s dispensing equipment such
24 devices or elements of design (including physical or

1 other barriers, devices, or technological systems) as
2 are determined by the Administrator to be—

3 “(A) necessary to ensure compatibility with
4 the motor vehicle design requirements under
5 paragraph (1); and

6 “(B) technically and economically feasible.

7 “(3) EPA DETERMINATION OF NATIONWIDE
8 AVAILABILITY.—The requirements of this subsection
9 shall not take effect unless the Administrator deter-
10 mines that 98 research octane number gasoline can
11 be made readily available nationwide and publishes
12 notice of the determination in the Federal Register.
13 Not later than December 31, 2029, the Adminis-
14 trator shall make a determination of whether 98 re-
15 search octane number gasoline can be made readily
16 available nationwide. If the Administrator fails to
17 make such determination by the date specified in the
18 preceding sentence, the Administrator is deemed to
19 have determined that 98 research octane number
20 gasoline can be made readily available nationwide. If
21 the Administrator determines that 98 research oc-
22 tane number gasoline cannot be made readily avail-
23 able nationwide, the Administrator shall revisit such
24 determination in the subsequent calendar year and
25 shall continue to revisit such determination annually

1 unless and until the Administrator determines that
2 98 research octane number gasoline can be made
3 readily available nationwide. If the Administrator
4 does not revisit such determination for any calendar
5 year as required by the preceding sentence, the Ad-
6 ministrator is deemed to have determined that 98
7 research octane number gasoline can be made read-
8 ily available nationwide.

9 “(d) VIOLATIONS.—

10 “(1) MANUFACTURERS.—Any manufacturer
11 who violates subsection (b)(1) or (c)(1) shall be sub-
12 ject to a civil penalty of not more than \$5,000 for
13 each offense. Any such violation shall constitute a
14 separate offense with respect to each motor vehicle
15 or fuel dispenser.

16 “(2) FUEL RETAILER.—Any fuel retailer who
17 violates subsection (b)(2) or (c)(2) shall be subject
18 to a civil penalty of not more than \$2,500 for each
19 offense. Any such violation with respect to each dis-
20 pensing equipment unit shall constitute a separate
21 offense.

22 **“SEC. 264. MISFUELING.**

23 “(a) PROHIBITIONS AGAINST TAMPERING AND DE-
24 FEAT DEVICES FOR MOTOR VEHICLES.—In lieu of apply-

1 ing section 203(a)(3) with respect to the requirements of
2 this part, the following shall apply:

3 “(1) No person shall—

4 “(A) remove or render inoperative any de-
5 vice or element of design installed on or in a
6 motor vehicle pursuant to subsection (b)(1) or
7 (c)(1) of section 263 prior to its sale and deliv-
8 ery to the ultimate purchaser; or

9 “(B) knowingly remove or render inoper-
10 ative any such device or element of design after
11 such sale and delivery to the ultimate pur-
12 chaser.

13 “(2) No person shall manufacture or sell, or
14 offer to sell, or install, any part or component in-
15 tended for use with, or as part of, any motor vehicle,
16 where—

17 “(A) a principal effect of the part or com-
18 ponent is to bypass, defeat, or render inoper-
19 ative any device or element of design installed
20 on or in a motor vehicle pursuant to subsection
21 (b)(1) or (c)(1) of section 263; and

22 “(B) the person knows or should know
23 that such part or component is being offered
24 for sale or installed for such use or put to such
25 use.

1 “(b) PROHIBITIONS AGAINST TAMPERING AND DE-
2 FEAT DEVICES FOR DISPENSING EQUIPMENT.—No per-
3 son shall—

4 “(1) remove or render inoperative any device or
5 element of design installed pursuant to subsection
6 (b)(2) or (c)(2) of section 263; or

7 “(2) sell, or offer to sell, or incorporate into,
8 any part or component intended for use with, or as
9 part of, any dispensing equipment, where—

10 “(A) a principal effect of the part or com-
11 ponent is to bypass, defeat, or render inoper-
12 ative any device or element of design incor-
13 porated into dispensing equipment pursuant to
14 subsection (b)(2) or (c)(2) of section 263; and

15 “(B) the person knows or should know
16 that such part or component is being offered
17 for sale or incorporated for such use or put to
18 such use.

19 “(c) VIOLATIONS.—Any person who violates this sec-
20 tion shall be subject to a civil penalty of not more than
21 \$2,500. Any such violation shall constitute a separate of-
22 fense with respect to—

23 “(1) each motor vehicle or dispensing equip-
24 ment, for purposes of subsections (a)(1) and (b)(1);
25 and

1 “(2) each part or component, for purposes of
2 subsections (a)(2) and (b)(2).

3 **“SEC. 265. OCTANE STANDARD.**

4 “(a) OCTANE STANDARD.—

5 “(1) PROHIBITION.—

6 “(A) 95 RESEARCH OCTANE NUMBER MAR-
7 KETING.—No person shall sell motor vehicle
8 gasoline marketed as 95 research octane num-
9 ber unless such gasoline has a research octane
10 number of 95 or greater.

11 “(B) 98 RESEARCH OCTANE NUMBER MAR-
12 KETING.—No person shall sell motor vehicle
13 gasoline marketed as 98 research octane num-
14 ber unless such gasoline has a research octane
15 number of 98 or greater.

16 “(C) DEEMED COMPLIANCE.—A person,
17 including any distributor, blender, marketer, re-
18 seller, carrier, retailer, or wholesaler shall be
19 deemed to be in full compliance with this para-
20 graph if it can demonstrate, through evidence
21 deemed acceptable by the Administrator, that
22 such person had reason to believe in good faith
23 that the motor vehicle gasoline complied with
24 subparagraph (A) or (B).

25 “(2) CONTROLS.—

1 “(A) 95 RESEARCH OCTANE NUMBER
2 AVAILABILITY.—Effective January 1, 2025, any
3 person that owns, leases, operates, controls, or
4 supervises—

5 “(i) a retail outlet at which 200,000
6 or more gallons of gasoline were sold dur-
7 ing calendar year 2022 or any subsequent
8 calendar year, shall offer for sale motor ve-
9 hicle gasoline of not less than 95 research
10 octane number at such outlet; or

11 “(ii) six or more retail outlets offering
12 motor vehicle gasoline for sale, shall offer
13 for sale motor vehicle gasoline of not less
14 than 95 research octane number at not
15 fewer than 60 percent of such retail out-
16 lets.

17 “(B) 98 RESEARCH OCTANE NUMBER
18 AVAILABILITY.—Effective January 1, 2030, any
19 person that owns, leases, operates, controls, or
20 supervises—

21 “(i) a retail outlet at which 200,000
22 or more gallons of gasoline were sold dur-
23 ing calendar year 2028 or any subsequent
24 calendar year, shall offer for sale motor ve-

1 hicle gasoline of not less than 98 research
 2 octane number at such outlet; or

3 “(ii) six or more retail outlets offering
 4 motor vehicle fuel for sale, shall offer for
 5 sale motor vehicle gasoline of not less than
 6 98 research octane number at no fewer
 7 than 60 percent of such retail outlets.

8 “(b) VIOLATIONS.—Any person that violates—

9 “(1) subsection (a)(1), (a)(2)(A)(i), or
 10 (a)(2)(B)(i) shall be subject to a civil penalty of not
 11 more than \$25,000 for each day on which such vio-
 12 lation continues; and

13 “(2) subsection (a)(2)(A)(ii) or (a)(2)(B)(ii)
 14 shall be subject to a civil penalty of not more than
 15 \$2,500 per day for each retail outlet owned, leased,
 16 operated, controlled, or supervised by such person.

17 **“SEC. 266. REGULATIONS.**

18 “(a) REGULATIONS.—The Administrator shall—

19 “(1) not later than 12 months after the date of
 20 enactment of the Next Generation Fuels Act of
 21 2021, propose regulations to carry out this part; and

22 “(2) not later than 24 months after such date
 23 of enactment, finalize regulations to carry out this
 24 part.

1 **“SEC. 267. LIABILITY LIMITATION AND PREEMPTION.**

2 “(a) LIMITATION OF LIABILITY.—A manufacturer of
3 a motor vehicle, or a gasoline retailer, that is in compli-
4 ance with the requirements of this part and the require-
5 ments of sections 203(e) and 206 of the Petroleum Mar-
6 keting Practices Act, shall not be liable under any provi-
7 sion of this Act or any other Federal, State, or local law,
8 including common law, for damages—

9 “(1) to or caused by a motor vehicle described
10 in section 261(b); and

11 “(2) that would not have occurred but for the
12 introduction of gasoline with a research octane num-
13 ber required by this part.

14 “(b) PREEMPTION.—No State or any political sub-
15 division of a State may adopt, continue in effect, or en-
16 force, any provision of law or regulation—

17 “(1) requiring motor vehicles to operate using
18 gasoline with a certain octane content, or the cor-
19 responding design of equipment for dispensing such
20 gasoline into such motor vehicles, unless such provi-
21 sion of such law or regulation is the same as the cor-
22 responding provision under this part; or

23 “(2) limiting the concentration of ethanol in
24 motor vehicle gasoline.

1 **“SEC. 268. CIVIL ACTIONS; ADMINISTRATIVE ASSESSMENT**
2 **OF CERTAIN PENALTIES.**

3 “The provisions of subsections (b) and (c) of section
4 205 shall apply with respect to a violation of section 263
5 or 264 to the same extent and in the same manner as
6 such provisions apply with respect to a violation of section
7 203(a)(3).”.

8 **SEC. 4. OCTANE DISCLOSURE.**

9 (a) HIGH-EFFICIENCY FUELS.—Title II of the Petro-
10 leum Marketing Practices Act (15 U.S.C. 2821 et seq.)
11 is amended by adding at the end the following:

12 **“SEC. 206. HIGH-EFFICIENCY FUEL AND VEHICLE MAR-**
13 **KETING REQUIREMENTS.**

14 “(a) RULE.—The Federal Trade Commission shall,
15 by rule, and in consultation with persons to be regulated
16 under this section, consumer advocates, and other stake-
17 holders, as appropriate—

18 “(1) prescribe or revise requirements under this
19 title relating to the certification, display, and rep-
20 resentation of the automotive fuel rating of an auto-
21 motive fuel as necessary to carry out—

22 “(A) the requirement under subsection (b);
23 and

24 “(B) any determination made under sub-
25 section (c);

1 “(2) make the determination required under
2 subsection (c); and

3 “(3) prescribe requirements under subsection
4 (d).

5 “(b) REQUIREMENT.—The Federal Trade Commis-
6 sion shall require that, for purposes of this title, beginning
7 on the date that is 180 days after the date on which the
8 Federal Trade Commission issues a final rule under sub-
9 section (a), the automotive fuel rating of an automotive
10 fuel with a research octane number of 95 or higher be
11 determined only by the research octane number of such
12 automotive fuel.

13 “(c) LABELING.—

14 “(1) IN GENERAL.—The Federal Trade Com-
15 mission shall prescribe requirements—

16 “(A) as the Federal Trade Commission de-
17 termines necessary with respect to a display at
18 the point of sale to ultimate purchasers of auto-
19 motive fuel and a display on a motor vehicle
20 to—

21 “(i) inform such ultimate purchaser of
22 such automotive fuel and any purchaser or
23 user of such motor vehicle that—

24 “(I) a model year 2026 or later
25 motor vehicle is only warrantied to

1 use automotive fuel with a research
2 octane number of 95 or higher; and

3 “(II) a model year 2031 or later
4 motor vehicle is only warrantied to
5 use automotive fuel with a research
6 octane number of 98 or higher;

7 “(ii) provide a warning to such ulti-
8 mate purchaser of such automotive fuel
9 and any such purchaser or user of such
10 motor vehicle, that the use of automotive
11 fuel with a research octane number that—

12 “(I) is lower than 95 in a model
13 year 2026 or later motor vehicle will
14 result in reduced fuel economy, in-
15 creased exhaust emissions, and pos-
16 sibly engine damage; and

17 “(II) is lower than 98 in a model
18 year 2031 or later motor vehicle will
19 result in reduced fuel economy, in-
20 creased exhaust emissions, and pos-
21 sibly engine damage; and

22 “(iii) inform such ultimate purchaser
23 of such automotive fuel and any purchaser
24 or user of such motor vehicle that—

1 “(I) a model year 2026 or later
2 motor vehicle is warrantied to use
3 gasoline containing up to and includ-
4 ing 25 percent ethanol by volume; and

5 “(II) a model year 2031 or later
6 motor vehicle is warrantied to use
7 gasoline containing up to and includ-
8 ing 30 percent ethanol by volume; and

9 “(B) that are applicable to—

10 “(i) a manufacturer of a new motor
11 vehicle (or an entity making a representa-
12 tion in connection with the sale of such
13 motor vehicle) with respect to a display on
14 such motor vehicle; and

15 “(ii) an automotive fuel retailer, with
16 respect to a display at the point of sale to
17 an ultimate purchaser of automotive fuel.

18 “(2) CONSIDERATIONS.—In prescribing require-
19 ments under paragraph (1), the Federal Trade Com-
20 mission shall ensure that such requirements are de-
21 signed to be—

22 “(A) understandable to—

23 “(i) the ultimate purchaser of auto-
24 motive fuel; and

1 “(ii) any purchaser or user of a model
2 year 2026 or later motor vehicle; and

3 “(B) cost effective for automotive fuel re-
4 tailers.

5 “(d) DEADLINES.—The Federal Trade Commission
6 shall—

7 “(1) not later than January 1, 2024, issue a
8 proposed rule under subsection (a); and

9 “(2) not later than July 1, 2025, issue a final
10 rule under subsection (a).”.

11 (b) ENFORCEMENT.—Section 203(e) of the Petro-
12 leum Marketing Practices Act (15 U.S.C. 2823(e)) is
13 amended—

14 (1) by striking “or a rule prescribed” and in-
15 serting “a rule prescribed”; and

16 (2) by striking “of such section.” and inserting
17 “of section 202, or a rule prescribed under section
18 206.”.

19 (c) TABLE OF CONTENTS AMENDMENT.—The table
20 of contents for the Petroleum Marketing Practices Act (15
21 U.S.C. 2801 et seq.) is amended by inserting after the
22 item relating to section 205 the following:

“Sec. 206. High-efficiency fuel and vehicle marketing requirements.”.

1 **SEC. 5. ADVERTISEMENT OF PRICE OF HIGH-OCTANE**
2 **AUTOMOTIVE FUEL.**

3 (a) IN GENERAL.—It shall be unlawful for any per-
4 son to sell or offer for sale, at retail, automotive fuel with
5 a research octane number (as such terms are defined in
6 section 201 of the Petroleum Marketing Practices Act (15
7 U.S.C. 2821)) of 95 or greater unless such person dis-
8 plays, in a manner specified in the rules promulgated
9 under subsection (b), the total price per gallon of such
10 fuel on any sign on which such person displays the price
11 of the most-sold grade of automotive fuel of such person.

12 (b) RULEMAKING.—

13 (1) IN GENERAL.—Not later than 24 months
14 after the date of enactment of this Act, the Federal
15 Trade Commission shall promulgate, in accordance
16 with section 553 of title 5, United States Code, any
17 rules necessary for the implementation and enforce-
18 ment of this section.

19 (2) CONTENTS.—Such rules—

20 (A) shall define “retail” and “most-sold”
21 for the purposes of this section;

22 (B) shall specify the manner in which the
23 price of automotive fuel with a research octane
24 number of 95 or greater must be displayed in
25 order to comply with subsection (a); and

1 (C) shall be consistent with the require-
 2 ments for declaring unfair acts or practices in
 3 section 5(n) of the Federal Trade Commission
 4 Act (15 U.S.C. 45(n)).

5 (c) ENFORCEMENT.—A violation of subsection (a)
 6 shall be treated as a violation of a rule defining an unfair
 7 or deceptive act or practice prescribed under section
 8 18(a)(1)(B) of the Federal Trade Commission Act (15
 9 U.S.C. 57a(a)(1)(B)). The Federal Trade Commission
 10 shall enforce this section in the same manner, by the same
 11 means, and with the same jurisdiction, powers, and duties
 12 as though all applicable terms and provisions of the Fed-
 13 eral Trade Commission Act (15 U.S.C. 41 et seq.) were
 14 incorporated into and made part of this section.

15 **SEC. 6. E40 RETAIL INFRASTRUCTURE STANDARD.**

16 Section 9003 of the Solid Waste Disposal Act (42
 17 U.S.C. 6991b) is amended by adding at the end the fol-
 18 lowing:

19 “(k) E40-COMPATIBLE RETAIL INFRASTRUCTURE
 20 SYSTEMS.—

21 “(1) IN GENERAL.—The Administrator shall,
 22 not later than January 1, 2024, issue or revise, as
 23 necessary, performance standards for underground
 24 storage tank systems and dispenser systems that are
 25 brought into use on or after January 1, 2024, to re-

1 quire that such systems be compatible with auto-
2 motive fuel consisting of gasoline and at least 40
3 percent ethanol by volume.

4 “(2) COMPATIBILITY.—Owner and operators
5 may demonstrate the compatibility of an under-
6 ground storage tank system with automotive fuel
7 containing any concentration of ethanol through the
8 use of a secondary containment system that is able
9 to—

10 “(A) contain regulated substances leaked
11 from the primary containment system until they
12 are detected and removed; and

13 “(B) prevent the release of regulated sub-
14 stances to the environment at any time during
15 the operational life of the underground storage
16 tank system.

17 “(3) DEFINITIONS.—In this subsection:

18 “(A) AUTOMOTIVE FUEL.—The term
19 ‘automotive fuel’ has the meaning given such
20 term in section 201(6) of the Petroleum Mar-
21 keting Practices Act (15 U.S.C. 2821(6)).

22 “(B) COMPATIBLE.—The term ‘compat-
23 ible’ means, to the extent feasible, certified by
24 a nationally recognized testing laboratory recog-
25 nized by the Occupational Safety and Health

Administration in accordance with section 1910.7 of title 29, Code of Federal Regulations (or any successor regulations) to maintain system performance throughout the operational life of the dispenser system.

“(C) DISPENSER SYSTEM.—The term ‘dispenser system’ has the meaning given such term in section 280.12 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).”.

**SEC. 7. REGISTRATION TESTING, REID VAPOR PRESSURE,
AND SUBSTANTIALLY SIMILAR WAIVERS.**

(a) REGISTRATION TESTING WAIVER.—Section 211(e) of the Clean Air Act (42 U.S.C. 7545(e)) is amended by adding at the end the following:

“(4) Fuels consisting of gasoline and no more than 30 percent ethanol by volume that meet the requirements of subsection (f)(3) shall be deemed to have satisfied any testing regulations promulgated under this subsection and to be immediately eligible for registration under subsection (b) without further testing.”.

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

(1) in paragraph (4)—

1 (A) in the matter preceding subparagraph
 2 (A), by inserting “or more” after “10 percent”;
 3 and

4 (B) in subparagraph (C), by striking “ad-
 5 ditional alcohol or”; and

6 (2) in paragraph (5)(A), by inserting “or more”
 7 after “10 percent”.

8 (c) SUBSTANTIALLY SIMILAR WAIVER.—Section
 9 211(f) of the Clean Air Act (42 U.S.C. 7545(f)) is amend-
 10 ed—

11 (1) in paragraph (1)—

12 (A) by striking subparagraph (A); and

13 (B) in subparagraph (B), by striking
 14 “(B)”;

15 (2) by amending paragraph (3) to read as fol-
 16 lows:

17 “(3) Fuels consisting of gasoline and ethanol may be
 18 introduced into commerce under this subsection for use
 19 in motor vehicles described in section 261(b), provided
 20 that the finished fuel—

21 “(A) does not exceed the warranted ethanol lev-
 22 els described in section 263(a);

23 “(B) meets the physical and chemical criteria
 24 specified by ASTM International Standard D4814—
 25 20 for gasoline with 15 percent ethanol; and

1 “(C) consists solely of carbon, hydrogen, oxy-
 2 gen, and sulfur, excepting any impurities present at
 3 trace levels that are gaseous upon combustion.”; and
 4 (3) in paragraph (4), by striking “or (3)”.

5 **SEC. 8. CLEAN OCTANE STANDARD.**

6 Section 211 of the Clean Air Act (42 U.S.C. 7545)
 7 is amended by—

8 (1) in subsection (d)—

9 (A) in paragraph (1), by striking “or (o)”
 10 each place it appears and inserting “(o), or
 11 (w)”;

12 (B) in paragraph (2), by striking “and
 13 (o)” each place it appears and inserting “(o),
 14 and (w)”;

15 (2) by adding at the end the following:

16 “(w) CLEAN OCTANE STANDARD.—

17 “(1) AROMATICS.—

18 “(A) ANNUAL AVERAGE LIMITATION.—Ef-
 19 fective beginning on January 1, 2025, it shall
 20 be unlawful for refiners or importers to sell
 21 motor vehicle gasoline that contains, on an av-
 22 erage annual basis, an aromatic hydrocarbon
 23 concentration in excess of 17.5 percent by vol-
 24 ume.

1 “(B) 2025 CAP.—Effective beginning on
2 January 1, 2025, it shall be unlawful for refin-
3 ers or importers to sell motor vehicle gasoline
4 that contains an aromatic hydrocarbon con-
5 centration in excess of 30 percent by volume.

6 “(C) 2030 CAP.—Effective beginning on
7 January 1, 2030, it shall be unlawful for refin-
8 ers or importers to sell motor vehicle gasoline
9 that contains an aromatic hydrocarbon content
10 in excess of 25 percent by volume.

11 “(D) OXYGENATE ADJUSTMENT FOR GASO-
12 LINE BLENDSTOCK.—For purposes of compli-
13 ance with this paragraph, the aromatics volume
14 of motor vehicle gasoline produced as
15 blendstock for oxygenate blending may be ad-
16 justed based on the specified type and amount
17 of oxygenate required to be added downstream.
18 Any such adjustment shall be made through—

19 “(i) the preparation of a hand blend
20 containing oxygenate; or

21 “(ii) any other method deemed accept-
22 able to the Administrator.

23 “(E) REGULATIONS.—

1 “(i) IN GENERAL.—The Administrator
2 shall promulgate regulations to implement
3 this paragraph.

4 “(ii) CONTENTS.—Such regulations
5 shall allow for the generation of tradeable
6 credits to meet the requirement of sub-
7 paragraph (A), but any credits shall expire
8 after not more than five years.

9 “(iii) INITIAL REGULATIONS.—Not
10 later than January 1, 2025, the Adminis-
11 trator shall promulgate final regulations
12 under clause (i).

13 “(2) LOW-CARBON OCTANE.—

14 “(A) PROHIBITION.—Effective beginning
15 on January 1, 2025, no refiner or importer
16 shall introduce into commerce motor vehicle
17 gasoline with a research octane number of 95
18 or higher except through the use of a fuel addi-
19 tive that has average lifecycle greenhouse gas
20 emissions that (as determined by the Secretary
21 of Energy using the version of the Argonne Na-
22 tional Laboratory Greenhouse gases, Regulated
23 Emissions, and Energy use in Transportation
24 (GREET) model in effect as of the date of en-
25 actment of the Next Generation Fuels Act of

1 2021) are at least 40 percent less than baseline
2 lifecycle greenhouse gas emissions.

3 “(B) REGULATIONS.—

4 “(i) IN GENERAL.—The Administrator
5 shall promulgate regulations to implement
6 this paragraph.

7 “(ii) CONTENTS.—Such regulations
8 shall—

9 “(I) determine the baseline
10 lifecycle greenhouse gas emissions for
11 purposes of this paragraph;

12 “(II) determine the average
13 lifecycle greenhouse gas emissions of
14 sources of octane value for purposes
15 of this paragraph; and

16 “(III) ensure that the require-
17 ments of this paragraph are met.

18 “(iii) INITIAL REGULATIONS.—Not
19 later than January 1, 2024, the Adminis-
20 trator shall promulgate final regulations
21 under clause (i).

22 “(3) DEFINITIONS.—

23 “(A) BASELINE LIFECYCLE GREENHOUSE
24 GAS EMISSIONS.—The term ‘baseline lifecycle
25 greenhouse gas emissions’ means the average

lifecycle greenhouse gas emissions, as determined by the Administrator, in consultation with the Director of the Argonne National Laboratory, for unblended gasoline sold or distributed as transportation fuel in 2021.

“(B) LIFECYCLE GREENHOUSE GAS EMISSIONS.—The term ‘lifecycle greenhouse gas emissions’ means the aggregate quantity of greenhouse gas emissions as determined by the Secretary of Energy using the version of the Argonne National Laboratory Greenhouse gases, Regulated Emissions, and Energy use in Transportation (GREET) model in effect as of on the date of enactment of the Next Generation Fuels Act of 2021.

“(C) RESEARCH OCTANE NUMBER.—The term ‘research octane number’ has the meaning given to such term in section 201 of the Petroleum Marketing Practices Act.”.

SEC. 9. NEW FUEL EFFECTS STUDY.

(a) FUEL EFFECTS STUDY.—Subject to subsection (b), the Administrator of the Environmental Protection Agency shall carry out a study of the emissions effects of ethanol-blended fuels in light-duty vehicles and light-duty trucks, for the purpose of updating the Motor Vehicle

1 Emission Simulator modeling system. In designing and
2 conducting such study, the Administrator shall—

3 (1) select test fuels that—

4 (A) reflect a range of ethanol concentra-
5 tions between 0 and at least 25 percent by vol-
6 ume; and

7 (B) are representative of fuels that are
8 widely available today or reasonably could be
9 available regionally or nationally, taking into
10 account fuel refinery operations and economics,
11 including the cost of reformate;

12 (2) select test vehicles that are representative of
13 recent-model-year vehicles that include relevant tech-
14 nologies that are, or reasonably may come to be, in
15 widespread use;

16 (3) measure emission products of combustion
17 including, at a minimum—

18 (A) particulate matter of 2.5 micrometers
19 in diameter or less;

20 (B) ultrafine particulate matter of 0.1 mi-
21 crometers in diameter or less;

22 (C) nitrogen oxides;

23 (D) total hydrocarbons;

24 (E) nonmethane organic gas;

25 (F) carbon monoxide;

- 1 (G) benzene;
- 2 (H) toluene;
- 3 (I) ethylbenzene;
- 4 (J) xylene;
- 5 (K) 1,3-butadiene;
- 6 (L) ethanol; and
- 7 (M) polycyclic aromatic hydrocarbons, in-
- 8 cluding at a minimum benzo(a)pyrene;
- 9 (4) measure the tendency of measured emis-
- 10 sions to form secondary organic aerosols and any
- 11 other relevant secondary air pollution; and
- 12 (5) consult with the Secretary of Energy, the
- 13 Secretary of Agriculture, and the Secretary of
- 14 Transportation (or their delegates).
- 15 (b) CERTIFICATION BY SECRETARY OF ENERGY.—
- 16 The Administrator of the Environmental Protection Agen-
- 17 cy shall—
- 18 (1) provide the proposed design of the study
- 19 under subsection (a) to the Secretary of Energy for
- 20 review; and
- 21 (2) not commence the study until the Secretary
- 22 of Energy certifies in writing that such design com-
- 23 plies with the requirements of subsection (a).

1 **SEC. 10. DUAL-FUELED AUTOMOBILE DEFAULT UTILIZA-**
 2 **TION FACTOR.**

3 (a) IN GENERAL.—Section 32905(b) of title 49,
 4 United States Code, is amended to read as follows:

5 “(b) DUEL FUELED AUTOMOBILES.—Except as pro-
 6 vided in subsection (d) of this section or section
 7 32904(a)(2) of this title—

8 “(1) for any model of dual-fueled automobile
 9 manufactured by a manufacturer in model years
 10 1993 through 2019, the Administrator of the Envi-
 11 ronmental Protection Agency shall measure the fuel
 12 economy for that model by dividing 1.0 by the sum
 13 of—

14 “(A) 0.5 divided by the fuel economy
 15 measured under section 32904(c) of this title
 16 when operating the model on gasoline or diesel
 17 fuel; and

18 “(B) 0.5 divided by the fuel economy—

19 “(i) measured under subsection (a)
 20 when operating the model on alternative
 21 fuel; or

22 “(ii) measured based on the fuel con-
 23 tent of B20 when operating the model on
 24 B20, which is deemed to contain 0.15 gal-
 25 lon of fuel; and

1 “(2) for any model of dual-fueled automobile
2 manufactured by a manufacturer in model year
3 2023 or later, the Administrator shall measure the
4 fuel economy for that model by dividing 1.0 by the
5 sum of—

6 “(A) 0.79 divided by the fuel economy
7 measured under section 32904(c) of this title
8 when operating the model on gasoline or diesel
9 fuel; and

10 “(B) 0.21 divided by the fuel economy
11 measured under subsection (a) when operating
12 the model on alternative fuel.

13 A manufacturer may demonstrate that a higher uti-
14 lization factor applies to any model of dual-fueled
15 automobile manufactured by such manufacturer in
16 model year 2023 or later.”.

17 (b) EXCLUSION FROM LIMIT ON MAXIMUM IN-
18 CREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO
19 DUAL-FUELED AUTOMOBILES.—Section 32906 of title
20 49, United States Code, is amended by adding at the end
21 the following:

22 “(c) EXCLUSION.—Subsection (a) shall not apply to
23 the fuel economy of dual-fueled automobiles measured
24 under section 32905(b)(2).”.

1 (c) TESTING PROCEDURES.—Section 206(h) of the
 2 Clean Air Act (42 U.S.C. 7525(h)) is amended by adding
 3 at the end the following: “Not later than July 1, 2022,
 4 the Administrator shall amend the test procedures under
 5 this section in accordance with section 32905(b)(2) of title
 6 49, United States Code.”.

7 **SEC. 11. TRANSFERS OF CREDITS FOR EXCEEDING AVER-**
 8 **AGE FUEL ECONOMY STANDARDS.**

9 Section 32903(g)(3) of title 49, United States Code,
 10 is amended to read as follows:

11 “(3) MAXIMUM INCREASE.—The maximum in-
 12 crease in any compliance category attributable to
 13 transferred credits is—

14 “(A) for model year 2021, 4.0 miles per
 15 gallon; and

16 “(B) for model year 2022 and subsequent
 17 model years, 6.0 miles per gallon.”.

18 **SEC. 12. EXTENSION AND EXPANSION OF ALTERNATIVE**
 19 **FUEL VEHICLE REFUELING PROPERTY CRED-**
 20 **IT.**

21 (a) IN GENERAL.—Section 30C of the Internal Rev-
 22 enue Code of 1986 is amended—

23 (1) by amending subsection (c) to read as fol-
 24 lows:

25 “(c) DEFINITIONS.—For purposes of this section—

1 “(1) QUALIFIED ALTERNATIVE FUEL VEHICLE
2 REFUELING PROPERTY.—The term ‘qualified alter-
3 native fuel vehicle refueling property’ means any
4 property (not including a building and its structural
5 components) if—

6 “(A) such property is of a character sub-
7 ject to the allowance for depreciation,

8 “(B) the original use of such property be-
9 gins with the taxpayer, and is not used as the
10 principal residence (within the meaning of sec-
11 tion 121) of the taxpayer, and

12 “(C) such property is used—

13 “(i) for the storage or dispensing of a
14 qualifying fuel into the fuel tank of a
15 motor vehicle propelled by such fuel, but
16 only if the storage or dispensing of the fuel
17 is at the point where such fuel is delivered
18 into the fuel tank of the motor vehicle, or

19 “(ii) for the recharging of motor vehi-
20 cles propelled by electricity, but only if
21 such property is located at the point where
22 the motor vehicles are recharged.

23 “(2) QUALIFYING FUEL.—The term ‘qualifying
24 fuel’ means—

1 “(A) any fuel at least 50 percent of the
2 volume of which consists of natural gas, com-
3 pressed natural gas, liquified natural gas, lique-
4 fied petroleum gas, or hydrogen, or

5 “(B) any fuel mixture at least 20 percent
6 of the volume of which consists of ethanol or
7 biodiesel, without regard to any denaturant or
8 kerosene used in such mixture.”; and

9 (2) in subsection (g), by striking “December
10 31, 2021” and inserting “December 31, 2027”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2021.

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