

113TH CONGRESS  
1ST SESSION

# H. R. 2267

To make the United States exclusively liable for certain claims of liability to the extent such liability is a claim for damages resulting from, or aggravated by, the inclusion of ethanol in transportation fuel.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2013

Mr. GENE GREEN of Texas (for himself, Mr. CULBERSON, and Mr. DOYLE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To make the United States exclusively liable for certain claims of liability to the extent such liability is a claim for damages resulting from, or aggravated by, the inclusion of ethanol in transportation fuel.

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 “American Fuel Protec-  
5 tion Act of 2013”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1           (1) Ethanol is currently widely distributed in  
2           commerce for general use in all conventional gaso-  
3           line-powered onroad and nonroad vehicles and  
4           nonroad engines in widespread use.

5           (2) On November 4, 2010, The U.S. Environ-  
6           mental Protection Agency (EPA) granted a partial  
7           waiver under the Clean Air Act to increase the  
8           blending limit of ethanol into gasoline from 10 to 15  
9           volume percent ethanol for model year 2007 and  
10          newer motor vehicles.

11          (3) On January 26, 2011, the EPA granted a  
12          partial waiver under the Clean Air Act to increase  
13          the blending limit of ethanol into gasoline from 10  
14          to 15 volume percent ethanol for model year 2001  
15          to 2006 motor vehicles.

16          (4) As part of EPA's waiver decisions, the Ad-  
17          ministrator found that the increased ethanol will not  
18          cause or contribute to a failure of any emission con-  
19          trol device or system over the useful life of the motor  
20          vehicle and motor vehicle engine which such fuel is  
21          used.

22          (5) On June 27, 2011, the EPA, in consulta-  
23          tion with the Federal Trade Commission (FTC) fi-  
24          nalized labeling requirements for all fuels distributed  
25          in commerce that exceed the 10 volume percent eth-

1       anol blending limit into gasoline to disclose to con-  
2       sumers that using such fuels may harm older con-  
3       ventional vehicles, boats, and other gasoline powered  
4       engines.

5               (6) Research has raised significant questions  
6       and concerns about the effects of using higher eth-  
7       anol blends on for motor vehicle and equipment en-  
8       gines on the performance of such engines.

9               (7) Effects such as increased engine failures,  
10       decreased engine performance, increased consumer  
11       complaints, increased litigation, or other unforeseen  
12       effects could have a significant impact on interstate  
13       commerce.

14              (8) Federal testing on newer motor vehicles to  
15       determine the effects on motor vehicle engines of in-  
16       creasing the blending limit of ethanol into gasoline  
17       was lacking in scope.

18              (9) Motor vehicle manufacturers have said dam-  
19       age caused by use of gasoline containing 15 volume  
20       percent ethanol may not be covered by warranties,  
21       and therefore use of the fuel may void the vehicle  
22       warranty.

23              (10) It is appropriate for Congress to mitigate  
24       undue effects on parties engaged in interstate com-  
25       merce resulting from a Federal decision to allow an

1 increase of the current blending limit of ethanol into  
2 gasoline despite indications that the use of such fuel  
3 may cause damage to motor vehicles and equipment  
4 engines.

5 **SEC. 3. LIABILITY FOR CLAIMS BASED ON DAMAGES RE-**  
6 **SULTING FROM, OR AGGRAVATED BY, THE IN-**  
7 **CLUSION OF ETHANOL IN CERTAIN FUEL.**

8 (a) EXCLUSIVE REMEDY AGAINST UNITED  
9 STATES.—

10 (1) Notwithstanding any other provision of law,  
11 any claim of liability described in subsection (b)  
12 against a qualified entity is deemed to be a claim of  
13 liability against the United States, and any such  
14 claim shall lie exclusively against the United States.

15 (2) Sovereign immunity is abrogated as to the  
16 United States to the extent set forth in this section.

17 (b) CLAIM OF LIABILITY.—A claim of liability is de-  
18 scribed in this subsection to the extent such liability is  
19 based upon damages resulting from, or aggravated by, the  
20 use of any transportation fuel (as defined in section  
21 211(o) of the Clean Air Act) containing ethanol in con-  
22 centrations greater than 10 percent pursuant to a waiver  
23 under section 211(f)(4) of the Clean Air Act to operate  
24 an internal combustion engine.

1           (c) LIMIT ON DAMAGES.—Damages awarded for such  
2 a claim shall not exceed the actual damages sustained by  
3 the claimant.

4           (d) EXCLUSIVE JURISDICTION.—The district courts  
5 shall have exclusive jurisdiction of any civil action on a  
6 claim of liability described under subsection (b).

7           (e) DEFINITION.—In this section, the term “qualified  
8 entity” means an entity engaged in the manufacture, use,  
9 sale, or distribution of—

- 10                   (1) transportation fuel or renewable fuel (as de-  
11 fined in section 211(o) of the Clean Air Act); or  
12                   (2) products which use transportation fuel.

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