

113TH CONGRESS
1ST SESSION

H. R. 1214

To provide liability protection for claims based on the design, manufacture, sale, offer for sale, introduction into commerce, or use of certain fuels and fuel additives, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2013

Mr. SHIMKUS introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, 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 provide liability protection for claims based on the design, manufacture, sale, offer for sale, introduction into commerce, or use of certain fuels and fuel additives, 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 “Domestic Fuels Pro-
5 tection Act of 2013”.

1 **SEC. 2. FUEL COMPATIBILITY.**

2 (a) COMPATIBILITY.—Subtitle I of the Solid Waste
3 Disposal Act (42 U.S.C. 6991 et seq.) is amended—

4 (1) by redesignating section 9014 as section
5 9015; and

6 (2) by inserting after section 9013 the fol-
7 lowing:

8 **“SEC. 9014. COMPATIBILITY.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) ASSOCIATED DISPENSING EQUIPMENT.—

11 The term ‘associated dispensing equipment’ means
12 equipment, at a stationary facility, that is—

13 “(A) used for—

14 “(i) the storage of any fuel or fuel ad-
15 ditive described in subsection (b)(3)(A); or

16 “(ii) the dispensing of any fuel or fuel
17 additive described in subsection (b)(3)(A)
18 into any fuel tank of any motor vehicle,
19 motor vehicle engine, nonroad vehicle,
20 nonroad engine, or nonroad equipment;
21 and

22 “(B) subject to regulation under section
23 1910.106 or 1926.152 of title 29, Code of Fed-
24 eral Regulations (as in effect on the date of en-
25 actment of the Domestic Fuels Protection Act
26 of 2013).

1 “(2) COMPATIBLE.—The term ‘compatible’ has
2 the meaning given the term in section 280.12 of title
3 40, Code of Federal Regulations (as in effect on the
4 date of enactment of the Domestic Fuels Protection
5 Act of 2013).

6 “(3) MOTOR VEHICLE.—The term ‘motor vehi-
7 cle’ has the meaning given the term in section 216
8 of the Clean Air Act (42 U.S.C. 7550).

9 “(4) MOTOR VEHICLE ENGINE.—The term
10 ‘motor vehicle engine’ means an engine in a motor
11 vehicle.

12 “(5) NONROAD ENGINE.—The term ‘nonroad
13 engine’ has the meaning given the term in section
14 216 of the Clean Air Act (42 U.S.C. 7550).

15 “(6) NONROAD EQUIPMENT.—The term
16 ‘nonroad equipment’ means any recreational, con-
17 struction, industrial, agricultural, logging, residen-
18 tial, commercial lawn and garden, or other equip-
19 ment that is powered by a nonroad engine.

20 “(7) NONROAD VEHICLE.—The term ‘nonroad
21 vehicle’ has the meaning given the term in section
22 216 of the Clean Air Act (42 U.S.C. 7550).

23 “(8) PROVIDER OF FINANCIAL ASSURANCE.—
24 The term ‘provider of financial assurance’ has the
25 meaning given the term in section 280.92 of title 40,

1 Code of Federal Regulations (as in effect on the
2 date of enactment of the Domestic Fuels Protection
3 Act of 2013).

4 “(9) UNDERGROUND STORAGE TANK SYS-
5 TEM.—The term ‘underground storage tank system’
6 means an underground storage tank, connected un-
7 derground piping, underground ancillary equipment,
8 and containment system, if any.

9 “(b) COMPATIBILITY WITH FUELS.—

10 “(1) LIABILITY.—No person shall be liable
11 under any Federal, State, or local law (including
12 common law) because an underground storage tank,
13 underground storage tank system, or associated dis-
14 pensing equipment is not compatible with a fuel or
15 fuel additive described in paragraph (3)(A) if the
16 tank, system, or equipment has been determined to
17 be compatible with the fuel or fuel additive under
18 the guidelines or regulations described in paragraph
19 (3).

20 “(2) FINANCIAL ASSURANCE.—A provider of fi-
21 nancial assurance shall not deny payment for any
22 claim on the basis that an underground storage
23 tank, underground storage tank system, or associ-
24 ated dispensing equipment is not compatible with a
25 fuel or fuel additive described in paragraph (3)(A) if

1 the tank, system, or equipment has been determined
2 to be compatible with the fuel or fuel additive under
3 the guidelines or regulations described in paragraph
4 (3).

5 “(3) GUIDELINES AND REGULATIONS.—

6 “(A) IN GENERAL.—Paragraphs (1) and
7 (2) apply to any underground storage tank, un-
8 derground storage tank system, and associated
9 dispensing equipment that meets any guidelines
10 or regulations, which may be revised under sub-
11 paragraph (B), issued by the Administrator and
12 in effect on the date of enactment of the Do-
13 mestic Fuels Protection Act of 2013, address-
14 ing compatibility of such tanks, systems, or
15 equipment with any fuel or fuel additive that is
16 authorized and registered, or for which an up-
17 dated registration is accepted, by the Adminis-
18 trator or under any Federal law, for use in a
19 motor vehicle, motor vehicle engine, nonroad ve-
20 hicle, nonroad engine, or nonroad equipment.

21 “(B) REGULATIONS.—

22 “(i) IN GENERAL.—Not later than 1
23 year after the date of enactment of the Do-
24 mestic Fuels Protection Act of 2013, the
25 Administrator shall issue, or if applicable

1 revise, regulations setting standards for de-
2 termining whether an underground storage
3 tank, underground storage tank system, or
4 associated dispensing equipment is compat-
5 ible with a fuel or fuel additive described
6 in subparagraph (A).

7 “(ii) MINIMUM STANDARDS.—The
8 regulations issued under clause (i) shall in-
9 clude minimum standards and processes
10 for certification by the Administrator or by
11 an owner, operator, or manufacturer of un-
12 derground storage tanks, underground
13 storage tank systems, or associated dis-
14 pensing equipment, to ensure compat-
15 ibility.

16 “(4) UNDERGROUND STORAGE TANKS, UNDER-
17 GROUND STORAGE TANK SYSTEMS, AND ASSOCIATED
18 DISPENSING EQUIPMENT PREVIOUSLY LISTED AS
19 COMPATIBLE.—Any underground storage tank, un-
20 derground storage tank system, or associated dis-
21 pensing equipment that, on or before the date of en-
22 actment of the Domestic Fuels Protection Act of
23 2013, is listed by a nationally recognized testing lab-
24 oratory as compatible with a fuel or fuel additive de-
25 scribed in paragraph (3)(A) shall be deemed compat-

1 ible with such fuel or fuel additive under the regula-
2 tions issued under this subsection.

3 “(5) ADMINISTRATION.—Nothing in this section
4 affects—

5 “(A) any other requirement respecting the
6 introduction into commerce, offering for sale, or
7 sale of any fuel or fuel additive;

8 “(B) any requirement under section 211(o)
9 of the Clean Air Act (42 U.S.C. 7545(o)); or

10 “(C) any other requirement under this
11 subtitle.”.

12 (b) CONFORMING AMENDMENTS.—The Solid Waste
13 Disposal Act is amended—

14 (1) in section 9003(h)(12)(A) (42 U.S.C.
15 6991b(h)(12)(A)), by striking “section 9014(2)(B)”
16 and inserting “section 9015(2)(B)”;

17 (2) in section 9004(f)(1)(A) (42 U.S.C.
18 6991e(f)(1)(A)), by striking “section 9014(2)(A)”
19 and inserting “section 9015(2)(A)”;

20 (3) in section 9011 (42 U.S.C. 6991j), by strik-
21 ing “section 9014(2)(D)” and inserting “section
22 9015(2)(D)”.

23 (c) TABLE OF CONTENTS.—The table of contents
24 contained in section 1001 of the Solid Waste Disposal Act

1 (42 U.S.C. 6901) is amended by striking the item relating
2 to section 9014 and inserting the following:

“Sec. 9014. Compatibility.

“Sec. 9015. Authorization of Appropriations.”.

3 **SEC. 3. MISFUELING.**

4 (a) IN GENERAL.—Section 211(g) of the Clean Air
5 Act (42 U.S.C. 7545(g)) is amended by adding at the end
6 the following:

7 “(3) LIMITATION ON LIABILITY.—

8 “(A) LIMITATION.—

9 “(i) IN GENERAL.—Except as provided in
10 clause (ii), no person shall be liable under any
11 provision of this Act or any Federal, State, or
12 local law, including common law, if—

13 “(I) a self-service purchaser intro-
14 duces any transportation fuel into any
15 motor vehicle, motor vehicle engine,
16 nonroad vehicle, or nonroad equipment for
17 which the fuel has not been approved
18 under subsection (f); or

19 “(II) the introduction of any transpor-
20 tation fuel voids the warranty of the manu-
21 facturer of the motor vehicle, motor vehicle
22 engine, nonroad engine, nonroad vehicle, or
23 nonroad equipment.

1 “(ii) EXCEPTION.—Clause (i) shall not
2 apply to—

3 “(I) a person who sells any transpor-
4 tation fuel and does not comply with the
5 misfueling regulations adopted by the Ad-
6 ministrator under section 80.1501 of title
7 40, Code of Federal Regulations (or suc-
8 cessor regulations); or

9 “(II) a person who intentionally
10 misfuels.

11 “(B) DEFINITIONS.—In this paragraph:

12 “(i) NONROAD EQUIPMENT.—The term
13 ‘nonroad equipment’ means any recreational,
14 construction, industrial, agricultural, logging,
15 residential, commercial lawn and garden, or
16 other equipment that is powered by a nonroad
17 engine.

18 “(ii) TRANSPORTATION FUEL.—The term
19 ‘transportation fuel’ means any fuel that con-
20 tains a fuel or a fuel additive, or a blend of a
21 fuel and fuel additive, that is authorized after
22 January 1, 2010, by the Administrator or
23 under any Federal law, for use in any motor ve-
24 hicle, motor vehicle engine, nonroad vehicle,
25 nonroad engine, or nonroad equipment.”.

1 (b) PENALTIES.—Section 211(d) of the Clean Air Act
2 (42 U.S.C. 7545(d)) is amended—

3 (1) in paragraph (1), in the first sentence, by
4 inserting “(g),” after “or the regulations prescribed
5 under subsection (c),”; and

6 (2) in paragraph (2), in the first sentence, by
7 inserting “(g),” after “of the regulations prescribed
8 under subsections (c),”.

9 **SEC. 4. LIMITATION ON LIABILITY.**

10 (a) QUALIFIED CIVIL LIABILITY ACTIONS IN FED-
11 ERAL COURT AND STATE COURT.—

12 (1) IN GENERAL.—No qualified civil liability ac-
13 tion shall be filed or maintained in any court of the
14 United States or any State court.

15 (2) DISMISSAL OF PENDING ACTIONS.—Any
16 qualified civil liability action filed or pending in any
17 court of the United States or any State court on or
18 after the date of enactment of this Act shall be dis-
19 missed with prejudice.

20 (b) SAFE HARBOR.—Notwithstanding any Federal,
21 State, or local law (including common law), no qualified
22 product shall be considered to be a defective product, if
23 the qualified product does not violate a control or prohibi-
24 tion, respecting any characteristic or component of the
25 qualified product, imposed by the Administrator of the

1 Environmental Protection Agency under section 211 of
2 the Clean Air Act (42 U.S.C. 7545).

3 (c) DEFINITIONS.—In this section:

4 (1) COVERED ENTITY.—The term “covered en-
5 tity” means any entity engaged in the design, manu-
6 facture, sale, or distribution of any—

7 (A) qualified product; or

8 (B) motor vehicle, motor vehicle engine,
9 nonroad vehicle, nonroad engine, or nonroad
10 equipment.

11 (2) MOTOR VEHICLE.—The term “motor vehi-
12 cle” has the meaning given the term in section 216
13 of the Clean Air Act (42 U.S.C. 7550).

14 (3) MOTOR VEHICLE ENGINE.—The term
15 “motor vehicle engine” means an engine in a motor
16 vehicle.

17 (4) NONROAD ENGINE.—The term “nonroad
18 engine” has the meaning given the term in section
19 216 of the Clean Air Act (42 U.S.C. 7550).

20 (5) NONROAD EQUIPMENT.—The term
21 “nonroad equipment” means any recreational, con-
22 struction, industrial, agricultural, logging, residen-
23 tial, commercial lawn and garden, or other equip-
24 ment that incorporates a nonroad engine.

1 (6) NONROAD VEHICLE.—The term “nonroad
2 vehicle” has the meaning given the term in section
3 216 of the Clean Air Act (42 U.S.C. 7550).

4 (7) PERSON.—The term “person” has the
5 meaning given the term in section 1 of title 1,
6 United States Code, except that the term includes
7 any governmental entity.

8 (8) QUALIFIED CIVIL LIABILITY ACTION.—The
9 term “qualified civil liability action” means any civil
10 action or proceeding brought by any person against
11 a covered entity for damages, punitive damages, in-
12 junctive or declaratory relief, abatement, restitution,
13 fines, penalties, or other relief, resulting from the in-
14 troduction of any qualified product into any motor
15 vehicle, motor vehicle engine, nonroad vehicle,
16 nonroad engine, or nonroad equipment.

17 (9) QUALIFIED PRODUCT.—The term “qualified
18 product” means—

19 (A) any fuel or fuel additive for which a
20 registration is in effect under section 211(b) of
21 the Clean Air Act (42 U.S.C. 7545(b)) or any
22 other Federal law enacted on or after October
23 13, 2010;

24 (B) a transportation fuel or transportation
25 fuel additive that—

1 (i) contains any renewable fuel (as de-
2 fined in section 211(o)(1) of the Clean Air
3 Act (42 U.S.C. 7545(o)(1))); and

4 (ii) is designated for introduction into
5 interstate commerce by the Administrator
6 of the Environmental Protection Agency or
7 the Secretary of Energy under the Clean
8 Air Act (42 U.S.C. 7401 et seq.), the En-
9 ergy Policy Act of 1992 (42 U.S.C. 13201
10 et seq.), or any other Federal law enacted
11 on or after October 13, 2010;

12 (C) any component of a fuel or fuel addi-
13 tive described in subparagraph (A) or (B); or

14 (D) any blend stock.

15 (10) STATE.—The term “State” means each of
16 the several States of the United States; the District
17 of Columbia; and any territory, commonwealth, or
18 possession of the United States.

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