

117TH CONGRESS  
2D SESSION

# S. 4217

To ensure transparent and competitive transportation fuel markets in order to protect consumers from unwarranted price increases.

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IN THE SENATE OF THE UNITED STATES

MAY 12, 2022

Ms. CANTWELL (for herself, Mr. WYDEN, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To ensure transparent and competitive transportation fuel markets in order to protect consumers from unwarranted price increases.

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 “Transportation Fuel  
5 Market Transparency Act”.

1 **SEC. 2. AMENDMENTS TO THE PROHIBITIONS ON MARKET**  
2 **MANIPULATION AND FALSE INFORMATION**  
3 **PROVISIONS OF THE ENERGY INDEPEND-**  
4 **ENCE AND SECURITY ACT OF 2007.**

5 (a) APPLICATION TO TRANSPORTATION FUEL.—Sub-  
6 title B of title VIII of the Energy Independence and Secu-  
7 rity Act of 2007 (42 U.S.C. 17301 et seq.) is amended—

8 (1) in section 811, by striking “gasoline or pe-  
9 troleum distillates” and inserting “or transportation  
10 fuel”;

11 (2) in section 812—

12 (A) in the matter preceding paragraph (1),  
13 by striking “gasoline or petroleum distillates”  
14 and inserting “or transportation fuel”; and

15 (B) in paragraph (3), by striking “, gaso-  
16 line, or petroleum distillates” and inserting “or  
17 transportation fuel”; and

18 (3) by adding at the end the following new sec-  
19 tion:

20 **“SEC. 816. DEFINITION OF TRANSPORTATION FUEL.**

21 “In this subtitle, the term ‘transportation fuel’ in-  
22 cludes gasoline, distillate fuels (including heating oil), jet  
23 fuel, aviation gasoline, and biofuel (including ethanol, bio-  
24 mass-based diesel and distillates, and renewable blending  
25 components).”.

1 (b) PROHIBITION ON FALSE INFORMATION.—Section  
2 812 of the Energy Independence and Security Act of 2007  
3 (42 U.S.C. 17302) is amended—

4 (1) in the matter preceding paragraph (1)—

5 (A) by striking “wholesale” and inserting  
6 “supply of, operational actions related to, out-  
7 put related to, or wholesale”; and

8 (B) by striking “to a Federal department  
9 or agency”;

10 (2) in paragraph (1), by adding “and” at the  
11 end;

12 (3) by striking paragraph (2) and redesignating  
13 paragraph (3), as amended by subsection (a), as  
14 paragraph (2); and

15 (4) in paragraph (2), as so redesignated, by  
16 striking “the person intended the false or misleading  
17 data to affect data compiled by the department or  
18 agency” and inserting “the false or misleading infor-  
19 mation reported by the person affected analyses or  
20 data compiled by a Federal department or agency or  
21 a private sector price-reporting agency”.

22 (c) ENFORCEMENT.—Section 813(a) of the Energy  
23 Independence and Security Act of 2007 (42 U.S.C.  
24 17303(a)) is amended by striking “This subtitle” and in-

1 serting “Except as otherwise provided in section 814, this  
2 subtitle”.

3 (d) PENALTIES.—Section 814 of the Energy Inde-  
4 pendence and Security Act of 2007 (42 U.S.C. 17304) is  
5 amended—

6 (1) in subsection (a), by striking “\$1,000,000”  
7 and inserting “\$2,000,000”; and

8 (2) in subsection (b), by striking “section 5 of  
9 the Federal Trade Commission Act (15 U.S.C. 45)”  
10 and inserting “section 5(m)(1)(A) of the Federal  
11 Trade Commission Act (15 U.S.C. 45(m)(1)(A))”.

12 **SEC. 3. TRANSPORTATION FUEL MONITORING AND EN-**  
13 **FORCEMENT WITHIN THE FEDERAL TRADE**  
14 **COMMISSION.**

15 (a) ESTABLISHMENT OF THE TRANSPORTATION  
16 FUEL MONITORING AND ENFORCEMENT UNIT.—

17 (1) IN GENERAL.—The Commission shall estab-  
18 lish within the Commission the Transportation Fuel  
19 Monitoring and Enforcement Unit (in this section  
20 referred to as the “Unit”).

21 (2) DUTIES OF THE UNIT.—

22 (A) PRIMARY RESPONSIBILITY.—The pri-  
23 mary responsibility of the Unit shall be to assist  
24 the Commission in protecting the public interest  
25 by continuously and comprehensively collecting,

1 monitoring, and analyzing crude oil and trans-  
2 portation fuel market data in order to—

3 (i) support transparent and competi-  
4 tive market practices;

5 (ii) identify any market manipulation,  
6 reporting of false information, use of mar-  
7 ket power to disadvantage consumers, or  
8 other unfair method of competition; and

9 (iii) facilitate enforcement of penalties  
10 against persons in violation of relevant  
11 statutory prohibitions.

12 (B) SPECIFIC DUTIES.—In order to carry  
13 out the responsibility under subparagraph (A),  
14 the Unit shall assist the Commission in car-  
15 rying out the following duties:

16 (i) Receiving, compiling, and ana-  
17 lyzing relevant buying and selling activity  
18 in order to identify and investigate anoma-  
19 lous market trends and suspicious behav-  
20 ior.

21 (ii) Determining whether excessive  
22 concentration or exclusive control of en-  
23 ergy-related infrastructure may allow or  
24 result in anti-competitive behaviors.

1 (iii) Gathering evidence of wrongdoing  
2 against any person in violation of the stat-  
3 utory prohibitions on market manipulation  
4 and false information established in, and  
5 consistent with, subtitle B of title VIII of  
6 the Energy Independence and Security Act  
7 of 2007, as amended by section 2, or any  
8 other applicable provisions of the Federal  
9 Trade Commission Act (15 U.S.C. 45 et  
10 seq.).

11 (iv) Obtaining a data-sharing agree-  
12 ment with the Energy Information Admin-  
13 istration that includes the data collected in  
14 accordance with section 205(n) of the De-  
15 partment of Energy Organization Act (42  
16 U.S.C. 7135), as amended by section 4.

17 (v) Obtaining data-sharing agree-  
18 ments with the Commodities Futures  
19 Trading Commission, the Federal Energy  
20 Regulatory Commission, and as necessary  
21 and practicable, State energy offices or  
22 commissions, and relevant public and pri-  
23 vate data sources that will allow the Com-  
24 mission to receive and archive information  
25 on—

- 1 (I) crude oil and transportation  
2 fuel buying and selling activity;
- 3 (II) individual physical and fi-  
4 nancial market positions of market  
5 participants regarding crude oil and  
6 transportation fuel;
- 7 (III) refinery output, capacity,  
8 and inventory levels of crude oil and  
9 transportation fuel;
- 10 (IV) imports and exports of  
11 crude oil and transportation fuel with-  
12 in regions and at levels that could im-  
13 pact prices faced by consumers;
- 14 (V) public announcements by en-  
15 ergy companies of planned pricing or  
16 output decisions regarding crude oil  
17 and transportation fuel; and
- 18 (VI) other relevant market infor-  
19 mation that will facilitate the gath-  
20 ering of evidence described in clause  
21 (iii), including sufficient market infor-  
22 mation necessary to monitor for cross-  
23 market manipulations that may in-  
24 clude multiple financial and physical  
25 market positions.

1 (vi) Any other information determined  
2 appropriate by the Commission to carry  
3 out the responsibility under subparagraph  
4 (A).

5 (b) DEFINITIONS.—In this section:

6 (1) COMMISSION.—Other than in subsection  
7 (a)(2)(B)(v), the term “Commission” means the  
8 Federal Trade Commission.

9 (2) TRANSPORTATION FUEL.—The term “trans-  
10 portation fuel” includes gasoline, distillate fuels (in-  
11 cluding heating oil), jet fuel, aviation gasoline, and  
12 biofuel (including ethanol, biomass-based diesel and  
13 distillates, and renewable blending components).

14 (c) REGULATIONS.—Not later than 90 days after the  
15 date of enactment of this Act, the Commission shall pro-  
16 mulgate regulations to carry out this section.

17 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
18 authorized to be appropriated to the Commission such  
19 sums as may be necessary for each of fiscal years 2022  
20 through 2027 to carry out this section.

21 **SEC. 4. TRANSPORTATION FUEL MARKET TRANSPARENCY.**

22 Section 205 of the Department of Energy Organiza-  
23 tion Act (42 U.S.C. 7135) is amended by adding at the  
24 end the following:

1       “(n) TRANSPORTATION FUEL MARKET TRANS-  
2 PARENCY.—

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

4                       “(A) ENERGY COMPANY.—The term ‘en-  
5                       ergy company’ means a person (as defined in  
6                       section 11(e) of the Energy Supply and Envi-  
7                       ronmental Coordination Act of 1974 (15 U.S.C.  
8                       796(e))) that—

9                               “(i) owns or controls commercial  
10                               amounts of crude oil or transportation  
11                               fuel; or

12                               “(ii) is engaged in—

13                                       “(I) exploration for, or develop-  
14                                       ment of, crude oil;

15                                       “(II) extraction of crude oil;

16                                       “(III) refining or otherwise proc-  
17                                       essing crude oil or transportation fuel;

18                                       “(IV) commercial storage of  
19                                       crude oil or transportation fuel;

20                                       “(V) transportation by any  
21                                       means of commercial amounts of  
22                                       crude oil or transportation fuel; or

23                                       “(VI) wholesale or retail distribu-  
24                                       tion of crude oil or transportation  
25                                       fuel.

1           “(B) TRANSPORTATION FUEL.—The term  
2           ‘transportation fuel’ means—

3                   “(i) gasoline;

4                   “(ii) distillate fuels, including heating  
5                   oil;

6                   “(iii) jet fuel;

7                   “(iv) aviation gasoline; and

8                   “(v) biofuel, including ethanol, bio-  
9                   mass-based diesel and distillates, and re-  
10                  newable blending components.

11           “(2) PURPOSE.—The purpose of this subsection  
12           is to collect data necessary to facilitate transparent  
13           and competitive transportation fuel markets, deter-  
14           mine adherence to relevant international sanctions,  
15           and protect consumers.

16           “(3) SURVEYS.—

17                   “(A) IN GENERAL.—The Administrator  
18                   shall conduct surveys of energy companies to  
19                   collect detailed and timely information on  
20                   United States crude oil and transportation fuel  
21                   markets.

22                   “(B) EXEMPTION.—The Administrator  
23                   shall exempt an energy company from partici-  
24                   pating in the surveys conducted under subpara-  
25                   graph (A) if the energy company has a de mini-

1 mis market presence or impact, as determined  
2 by the Administrator.

3 “(4) DATA COLLECTED.—

4 “(A) IN GENERAL.—The surveys con-  
5 ducted under paragraph (3) shall collect infor-  
6 mation on a national, regional, State, and en-  
7 ergy company basis.

8 “(B) INFORMATION.—The surveys con-  
9 ducted under paragraph (3) shall collect the fol-  
10 lowing information with respect to crude oil and  
11 transportation fuel, as applicable:

12 “(i) The quantity of crude oil and  
13 transportation fuel imported and exported.

14 “(ii) The quantity of crude oil and  
15 transportation fuel refined, stored, and  
16 transported.

17 “(iii) The quantity of crude oil and  
18 transportation fuel entering final retail and  
19 commercial commerce.

20 “(iv) The quantity of crude oil and  
21 transportation fuel purchased and sold at  
22 any upstream point between energy compa-  
23 nies, including off-exchange bilateral sales  
24 and sales between subsidiaries of the same  
25 energy company.

1           “(v) Market price data for the trans-  
2           actions described in clauses (i) through  
3           (iv).

4           “(vi) Submissions to relevant price re-  
5           porting entities.

6           “(vii) Any other such data, analyses,  
7           or evaluations that the Administrator de-  
8           termines is necessary to achieve the pur-  
9           pose described in paragraph (2).

10          “(C) ORIGIN OF FUEL.—In obtaining the  
11          information described in subparagraph (B), the  
12          Administrator shall, to the maximum extent  
13          practicable, track and publish the country of  
14          original production of crude oil and transpor-  
15          tation fuel that may have been resold, refined,  
16          blended, stored, or otherwise been exchanged or  
17          sold before being imported or exported into the  
18          United States.

19          “(D) OTHER SOURCES.—The Adminis-  
20          trator may, when practicable and determined  
21          reliable by the Administrator, obtain informa-  
22          tion described in subparagraph (B) from pri-  
23          vate price publishers and providers of trade  
24          processing services.

1           “(5) MINIMIZING REPORTING BURDENS.—The  
2 Administrator shall seek to minimize any burdens on  
3 energy companies in reporting information to the  
4 Administrator, including by automating data sub-  
5 mission practices for data collected under the sur-  
6 veys conducted under paragraph (3).

7           “(6) PUBLIC DISTRIBUTION.—

8           “(A) IN GENERAL.—To the maximum ex-  
9 tent practicable, subject to this paragraph, the  
10 Administrator shall consistently and promptly  
11 make publicly available analyses of the results  
12 of the data collected pursuant to this subsection  
13 in a form and manner easily adaptable for pub-  
14 lic use and machine analysis.

15           “(B) GEOGRAPHICAL SPECIFICITY.—Anal-  
16 yses published under subparagraph (A)—

17           “(i) shall be geographically specific  
18 enough to provide meaningful differentia-  
19 tion between fuel markets; and

20           “(ii) shall not organize geographical  
21 data in the form of Petroleum Administra-  
22 tion for Defense Districts or other geo-  
23 graphic aggregations lacking sufficient res-  
24 olution to ascertain regionally specific mar-  
25 ket trends or disparities.

1           “(C) NONDISCLOSURE.—Any analysis pub-  
2           lished under subparagraph (A) shall not dis-  
3           close matters exempted from mandatory disclo-  
4           sure under section 552(b) of title 5, United  
5           States Code.

6           “(7) DATA-SHARING AGREEMENTS.—

7           “(A) FEDERAL TRADE COMMISSION.—Not-  
8           withstanding subchapter III of chapter 35 of  
9           title 44, United States Code (commonly known  
10          as the ‘Confidential Information Protection and  
11          Statistical Efficiency Act of 2018’), not later  
12          than 1 year after the date of enactment of this  
13          subsection, the Administrator shall enter into a  
14          data-sharing agreement with the Federal Trade  
15          Commission that shall allow any information  
16          collected pursuant to this subsection to be re-  
17          quested by and transferred to the Federal  
18          Trade Commission without limitation or delay.

19          “(B) OTHER FEDERAL AGENCIES.—The  
20          Administrator may enter into data-sharing  
21          agreements with other Federal agencies that  
22          have energy-related policy decision-making re-  
23          sponsibilities, including the Commodity Futures  
24          Trading Commission, the Federal Energy Regu-

1 latory Commission, and the Securities and Ex-  
2 change Commission.”.

3 “(9) AUTHORIZATION OF APPROPRIATIONS.—

4 There is authorized to be appropriated to the Ad-  
5 ministrator to carry out this section such sums as  
6 are necessary for each of fiscal years 2022 through  
7 2027.”.

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