

119TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Clean Air Act to modify Reid Vapor Pressure requirements and to provide for the return of certain retired credits, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mrs. FISCHER introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Clean Air Act to modify Reid Vapor Pressure requirements and to provide for the return of certain retired credits, 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 “Nationwide Consumer  
5       and Fuel Retailer Choice Act of 2026”.

6       **SEC. 2. ETHANOL WAIVER.**

7       (a) EXISTING WAIVERS.—Section 211(f)(4) of the  
8       Clean Air Act (42 U.S.C. 7545(f)(4)) is amended—

9               (1) by striking “(4) The Administrator, upon”  
10       and inserting the following:

1 “(4) WAIVERS.—

2 “(A) IN GENERAL.—The Administrator,  
3 on”;

4 (2) in subparagraph (A) (as so designated)—

5 (A) in the first sentence—

6 (i) by striking “of this subsection”  
7 each place it appears; and

8 (ii) by striking “if he determines” and  
9 inserting “if the Administrator deter-  
10 mines”; and

11 (B) in the second sentence, by striking  
12 “The Administrator” and inserting the fol-  
13 lowing:

14 “(B) FINAL ACTION.—The Adminis-  
15 trator”; and

16 (3) by adding at the end the following:

17 “(C) REID VAPOR PRESSURE.—A fuel or  
18 fuel additive may be introduced into commerce  
19 if—

20 “(i)(I) the Administrator determines  
21 that the fuel or fuel additive is substan-  
22 tially similar to a fuel or fuel additive uti-  
23 lized in the certification of any model year  
24 vehicle pursuant to paragraph (1)(A); or

1 “(II) the fuel or fuel additive has been  
2 granted a waiver under subparagraph (A)  
3 and meets all of the conditions of that  
4 waiver other than any limitation of the  
5 waiver with respect to the Reid Vapor  
6 Pressure of the fuel or fuel additive; and

7 “(ii) the fuel or fuel additive meets all  
8 other applicable Reid Vapor Pressure re-  
9 quirements under subsection (h).”.

10 (b) REID VAPOR PRESSURE LIMITATION.—Section  
11 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is  
12 amended—

13 (1) by striking “vapor pressure” each place it  
14 appears and inserting “Vapor Pressure”;

15 (2) in paragraph (4), in the matter preceding  
16 subparagraph (A), by striking “10 percent” and in-  
17 serting “10 to 15 percent”; and

18 (3) in paragraph (5)(A)—

19 (A) by striking “Upon notification, accom-  
20 panied by” and inserting “On receipt of a noti-  
21 fication that is submitted after the date of en-  
22 actment of the Nationwide Consumer and Fuel  
23 Retailer Choice Act of 2026, and is accom-  
24 panied by appropriate”;

1 (B) by striking “10 percent” and inserting  
2 “10 to 15 percent”; and

3 (C) by adding at the end the following:  
4 “Upon the enactment of the Nationwide Con-  
5 sumer and Fuel Retailer Choice Act of 2026,  
6 any State for which the notification from the  
7 Governor of a State was submitted before the  
8 date of enactment of the Nationwide Consumer  
9 and Fuel Retailer Choice Act of 2026 and to  
10 which the Administrator applied the Reid Vapor  
11 Pressure limitation established by paragraph  
12 (1) shall instead have the Reid Vapor Pressure  
13 limitation established by paragraph (4) apply to  
14 all fuel blends containing gasoline and 10 to 15  
15 percent denatured anhydrous ethanol that are  
16 sold, offered for sale, dispensed, supplied, of-  
17 fered for supply, transported, or introduced into  
18 commerce in the area during the high ozone  
19 season.”.

20 **SEC. 3. DEFINITION OF SMALL REFINING COMPANY.**

21 Section 211(o)(1) of the Clean Air Act (42 U.S.C.  
22 7545(o)(1)) is amended—

23 (1) by redesignating subparagraph (L) as sub-  
24 paragraph (M); and

1 (2) by inserting after subparagraph (K) the fol-  
2 lowing:

3 “(L) SMALL REFINING COMPANY.—The  
4 term ‘small refining company’ means a com-  
5 pany, entity, or group of affiliated entities, in-  
6 cluding through subsidiaries, parent companies,  
7 joint ventures, holding companies, spin-offs, or  
8 other associated corporate or legal structures,  
9 the daily average aggregate daily crude oil  
10 throughput of which for calendar year 2025 did  
11 not exceed 75,000 barrels of crude oil per day  
12 as feedstock across all of the facilities of the  
13 company, entity, or group of affiliated entities  
14 that produced transportation fuel subject to the  
15 requirements of paragraph (2).”.

16 **SEC. 4. TERMINATION OF PETITIONS; ADJUSTED SMALL**  
17 **REFINING COMPANY OBLIGATION.**

18 (a) IN GENERAL.—Section 211(o)(9) of the Clean  
19 Air Act (42 U.S.C. 7545(o)(9)) is amended—

20 (1) in subparagraph (B)—

21 (A) in clause (i), by striking “A small” and  
22 inserting “Subject to clause (iv), a small”; and

23 (B) by adding at the end the following:

24 “(iv) TERMINATION OF EXEMPTION  
25 AND PETITIONS.—

1                   “(I) IN GENERAL.—Beginning in  
2                   calendar year 2028, the Administrator  
3                   may not apply or enforce any exten-  
4                   sion of an exemption granted pursu-  
5                   ant to a petition under this subpara-  
6                   graph or otherwise continue to enforce  
7                   the exemption under subparagraph  
8                   (A) with respect to any small refinery.

9                   “(II) LIMITATION ON PETI-  
10                  TIONS.—Notwithstanding any other  
11                  provision of law—

12                   “(aa) no small refinery may  
13                   petition for an extension under  
14                   this subparagraph with respect to  
15                   any calendar year after calendar  
16                   year 2027;

17                   “(bb) the Administrator may  
18                   not consider any petition for an  
19                   extension under this subpara-  
20                   graph, with respect to any cal-  
21                   endar year, that is submitted  
22                   after July 1, 2028; and

23                   “(cc) to the maximum ex-  
24                   tent practicable, the Adminis-  
25                   trator shall, not later than Octo-

1                               ber 1, 2028, act on all out-  
2                               standing petitions.”;

3               (2) by redesignating subparagraphs (C) and  
4               (D) as subparagraphs (D) and (E), respectively; and

5               (3) by inserting after subparagraph (B) the fol-  
6               lowing:

7                               “(C) ADJUSTED COMPLIANCE REQUIRE-  
8                               MENTS FOR SMALL REFINING COMPANIES.—

9                               “(i) IN GENERAL.—Beginning in cal-  
10                              endar year 2028, the Administrator shall,  
11                              subject to clause (ii), reduce the compli-  
12                              ance requirements of **[each]** small refining  
13                              company under paragraph (2) by 75 per-  
14                              cent.

15                             “(ii) NO SUBSEQUENT REDESIGNA-  
16                             TION.—If the average aggregate daily  
17                             crude oil throughput of a small refining  
18                             company exceeds the limit described in  
19                             paragraph (1)(L) in calendar year 2026 or  
20                             any subsequent calendar year, the small  
21                             refining company shall no longer be eligible  
22                             for the adjusted compliance requirements  
23                             under clause (i) during that calendar year  
24                             or any subsequent calendar year, regard-  
25                             less of whether the average aggregate daily

1                   crude oil throughput of the small refining  
2                   company drops below that limit again.”.

3           (b) SAVINGS PROVISION.—Nothing in this Act or an  
4 amendment made by this Act affects any remedy available  
5 to a small refinery (as defined in paragraph (1) of section  
6 211(o) of the Clean Air Act (42 U.S.C. 7545(o))) with  
7 respect to petitions for extensions of exemptions under  
8 paragraph (9) of that section and, for purposes of the ap-  
9 plication of such extensions and the review of the denial  
10 of such petitions, section 211(o)(9) of the Clean Air Act  
11 (42 U.S.C. 7545(o)(9)) shall be applied as in effect on  
12 the day before the date of enactment of this Act.

13 **SEC. 5. GENERATION OF CREDITS BY SMALL REFINERIES**  
14 **UNDER THE RENEWABLE FUEL PROGRAM.**

15           Section 211(o)(9) of the Clean Air Act (42 U.S.C.  
16 7545(o)(9)) (as amended by section 4(2)) is amended by  
17 adding at the end the following:

18                   “(F) CREDITS GENERATED FOR 2016–2018  
19 COMPLIANCE YEARS.—

20                   “(i) RULE.—For any small refinery  
21 described in clause (ii) or (iii), the credits  
22 described in the respective clause shall  
23 be—

24                   “(I) returned to the small refin-  
25 ery and, notwithstanding paragraph



1 (5)(C), deemed eligible for future  
2 compliance years; or

3 “(II) applied as a credit in the  
4 EPA Moderated Transaction System  
5 (EMTS) account of the small refinery.

6 “(ii) COMPLIANCE YEARS 2016 AND  
7 2017.—Clause (i) applies with respect to  
8 any small refinery that—

9 “(I) retired credits generated for  
10 compliance years 2016 or 2017; and

11 “(II) submitted a petition under  
12 subparagraph (B)(i) for that compli-  
13 ance year that remained outstanding  
14 as of December 1, 2022.

15 “(iii) COMPLIANCE YEAR 2018.—In  
16 addition to small refineries described in  
17 clause (ii), clause (i) applies with respect  
18 to any small refinery—

19 “(I) that submitted a petition  
20 under subparagraph (B)(i) for compli-  
21 ance year 2018 by September 1,  
22 2019;

23 “(II) that retired credits gen-  
24 erated for compliance year 2018 as  
25 part of the compliance demonstration

1 of the small refinery for compliance  
2 year 2018 by March 31, 2019; and

3 “(III) for which—

4 “(aa) the petition remained  
5 outstanding as of December 1,  
6 2022; or

7 “(bb) the Administrator de-  
8 nied the petition as of July 1,  
9 2022, and has not returned the  
10 retired credits as of December 1,  
11 2022.”.

12 **SEC. 6. PROHIBITION ON REALLOCATION OF OBLIGATED**  
13 **VOLUMES.**

14 Section 211(o)(9) of the Clean Air Act (42 U.S.C.  
15 7545(o)(9)) (as amended by section 5) is amended by add-  
16 ing at the end the following:

17 “(G) PROHIBITION ON REALLOCATION.—

18 For the purpose of making the determinations  
19 in paragraph (2)(B)(ii), for calendar year 2028  
20 and each calendar year thereafter, the Adminis-  
21 trator may not reallocate to other persons any  
22 renewable fuel obligation applicable to a small  
23 refining company the compliance requirements  
24 of which were reduced pursuant to subpara-  
25 graph (C).”.

1   **SEC. 7. FUEL INFRASTRUCTURE RULEMAKING.**

2           (a) IN GENERAL.—Not later than 18 months after  
3 the date of enactment of this Act, the Administrator of  
4 the Environmental Protection Agency shall, after a period  
5 of notice and public comment, finalize a rule modifying  
6 the regulations of the Environmental Protection Agency  
7 under the Clean Air Act (42 U.S.C. 7401 et seq.) and  
8 the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)  
9 (commonly known as the “Resource Conservation and Re-  
10 covery Act of 1976”) relating to the sale and distribution  
11 of gasoline-ethanol blends that contain greater than 10  
12 volume percent ethanol and less than or equal to 15 vol-  
13 ume percent ethanol.

14          (b) REQUIREMENT.—In finalizing the rule required  
15 under subsection (a), the Administrator of the Environ-  
16 mental Protection Agency shall modify the E15 fuel dis-  
17 penser labeling requirements and the underground storage  
18 tank regulations of the Environmental Protection Agency  
19 with respect to compatibility with gasoline-ethanol blends.