

1 **TITLE XI—HIGHWAY REAUTHOR-**
2 **IZATION AND EXCISE TAX**
3 **SIMPLIFICATION**

4 **SEC. 1100. AMENDMENT OF 1986 CODE.**

5 Except as otherwise expressly provided, whenever in
6 this title an amendment or repeal is expressed in terms
7 of an amendment to, or repeal of, a section or other provi-
8 sion, the reference shall be considered to be made to a
9 section or other provision of the Internal Revenue Code
10 of 1986.

11 **Subtitle A—Trust Fund**
12 **Reauthorization**

13 **SEC. 1101. EXTENSION OF HIGHWAY-RELATED TAXES AND**
14 **TRUST FUNDS.**

15 (a) EXTENSION OF TAXES.—

16 (1) IN GENERAL.—The following provisions are
17 each amended by striking “2005” each place it ap-
18 pears and inserting “2011”:

19 (A) Section 4041(a)(1)(C)(iii)(I) (relating
20 to rate of tax on certain buses).

21 (B) Section 4041(a)(2)(B) (relating to rate
22 of tax on special motor fuels).



1 (C) Section 4041(m)(1) (relating to certain
2 alcohol fuels).

3 (D) Section 4051(c) (relating to termi-
4 nation of tax on heavy trucks and trailers).

5 (E) Section 4071(d) (relating to termi-
6 nation of tax on tires).

7 (F) Section 4081(d)(1) (relating to termi-
8 nation of tax on gasoline, diesel fuel, and ker-
9 osene).

10 (2) EXTENSION OF TAX, ETC., ON USE OF CER-
11 TAIN HEAVY VEHICLES.—The following provisions
12 are each amended by striking “2006” each place it
13 appears and inserting “2011”:

14 (A) Section 4481(f) (relating to period tax
15 in effect).

16 (B) Section 4482(c)(4) (relating to taxable
17 period).

18 (C) Section 4482(d) (relating to special
19 rule for taxable period in which termination
20 date occurs).

21 (3) FLOOR STOCKS REFUNDS.—Section
22 6412(a)(1) (relating to floor stocks refunds) is
23 amended—

24 (A) by striking “2005” each place it ap-
25 pears and inserting “2011”, and



1 (B) by striking “2006” each place it ap-
2 pears and inserting “2012”.

3 (b) EXTENSION OF CERTAIN EXEMPTIONS.—

4 (1) CERTAIN TAX-FREE SALES.—Section
5 4221(a) (relating to certain tax-free sales) is amend-
6 ed by striking “2005” and inserting “2011”.

7 (2) TERMINATION OF EXEMPTIONS FOR HIGH-
8 WAY USE TAX.—Section 4483(h) (relating to termi-
9 nation of exemptions for highway use tax) is amend-
10 ed by striking “2006” and inserting “2011”.

11 (c) EXTENSION OF TRANSFERS OF CERTAIN
12 TAXES.—

13 (1) IN GENERAL.—Paragraphs (1) and (2) of
14 subsection (b), and paragraphs (2) and (3) of sub-
15 section (c), of section 9503 (relating to the Highway
16 Trust Fund) are each amended—

17 (A) by striking “2005” each place it ap-
18 pears and inserting “2011”, and

19 (B) by striking “2006” each place it ap-
20 pears and inserting “2012”.

21 (2) MOTORBOAT AND SMALL-ENGINE FUEL TAX
22 TRANSFERS.—

23 (A) IN GENERAL.—Subparagraph (A) of
24 section 9503(c)(5) is amended by striking
25 “2005” and inserting “2011”.



1 (B) CONFORMING AMENDMENTS TO LAND
2 AND WATER CONSERVATION FUND.—Section
3 201(b) of the Land and Water Conservation
4 Fund Act of 1965 (16 U.S.C. 460l–11(b)) is
5 amended—

6 (i) by striking “2003” and inserting
7 “2011”, and

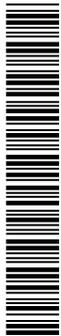
8 (ii) by striking “2004” each place it
9 appears and inserting “2012”.

10 (d) EXTENSION AND EXPANSION OF EXPENDITURES
11 FROM TRUST FUNDS.—

12 (1) HIGHWAY TRUST FUND.—

13 (A) HIGHWAY ACCOUNT.—Paragraph (1)
14 of section 9503(e) of such Code is amended to
15 read as follows:

16 “(1) FEDERAL-AID HIGHWAY PROGRAM.—Ex-
17 cept as provided in subsection (e), amounts in the
18 Highway Trust Fund shall be available, as provided
19 by appropriation Acts, for making expenditures be-
20 fore September 30, 2009 (October 1, 2009, in the
21 case of expenditures for administrative expenses), to
22 meet those obligations of the United States here-
23 tofore or hereafter incurred which are authorized to
24 be paid out of the Highway Trust Fund under the
25 Safe, Accountable, Flexible, Efficient Transportation



1 Equity Act: A Legacy for Users or any other provi-
2 sion of law which was referred to in this paragraph
3 before the date of the enactment of such Act (as
4 such Act and provisions of law are in effect on the
5 date of the enactment of such Act).”.

6 (B) MASS TRANSIT ACCOUNT.—Paragraph
7 (3) of section 9503(e) of such Code is amended
8 to read as follows:

9 “(3) EXPENDITURES FROM ACCOUNT.—
10 Amounts in the Mass Transit Account shall be avail-
11 able, as provided by appropriation Acts, for making
12 capital or capital related expenditures (including
13 capital expenditures for new projects) before October
14 1, 2009, in accordance with the Safe, Accountable,
15 Flexible, Efficient Transportation Equity Act: A
16 Legacy for Users or any other provision of law
17 which was referred to in this paragraph before the
18 date of the enactment of such Act (as such Act and
19 provisions of law are in effect on the date of the en-
20 actment of such Act).”.

21 (C) EXCEPTION TO LIMITATION ON TRANS-
22 FERS.—Subparagraph (B) of section
23 9503(b)(6) is amended by striking “July 31,
24 2005” and inserting “September 30, 2009 (Oc-



1 tober 1, 2009, in the case of expenditures for
2 administrative expenses)”.
3

3 (2) AQUATIC RESOURCES TRUST FUND.—

4 (A) SPORT FISH RESTORATION AC-
5 COUNT.—Paragraph (2) of section 9504(b) is
6 amended by striking “Surface Transportation
7 Extension Act of 2005, Part V” each place it
8 appears and inserting “Safe, Accountable,
9 Flexible, Efficient Transportation Equity Act:
10 A Legacy for Users”.

11 (B) EXCEPTION TO LIMITATION ON TRANS-
12 FERS.—Paragraph (2) of section 9504(d) is
13 amended by striking “July 31, 2005” and in-
14 serting “October 1, 2009”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act.

18 **SEC. 1102. MODIFICATION OF ADJUSTMENTS OF APPOR-**
19 **TIONMENTS.**

20 (a) IN GENERAL.—Section 9503(d) (relating to ad-
21 justments for apportionments) is amended—

22 (1) by striking “24-month” in paragraph
23 (1)(B) and inserting “48-month”, and

24 (2) by striking “2 YEARS’ ” in the heading for
25 paragraph (3) and inserting “4 YEARS’ ”.



1 (b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—
2 Section 9503(d) is amended by redesignating paragraph
3 (6) as paragraph (7) and by inserting after paragraph (5)
4 the following new paragraph:

5 “(6) MEASUREMENT OF NET HIGHWAY RE-
6 CEIPTS.—For purposes of making any estimate
7 under paragraph (1) of net highway receipts for pe-
8 riods ending after the date specified in subsection
9 (b)(1), the Secretary shall treat—

10 “(A) each expiring provision of subsection
11 (b) which is related to appropriations or trans-
12 fers to the Highway Trust Fund to have been
13 extended through the end of the 48-month pe-
14 riod referred to in paragraph (1)(B), and

15 “(B) with respect to each tax imposed
16 under the sections referred to in subsection
17 (b)(1), the rate of such tax during the 48-
18 month period referred to in paragraph (1)(B)
19 to be the same as the rate of such tax as in ef-
20 fect on the date of such estimate.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act.



1 **Subtitle B—Excise Tax Reform and**
2 **Simplification**

3 **PART 1—HIGHWAY EXCISE TAXES**

4 **SEC. 1111. MODIFICATION OF GAS GUZZLER TAX.**

5 (a) UNIFORM APPLICATION OF TAX.—Subparagraph
6 (A) of section 4064(b)(1) (defining automobile) is amend-
7 ed by striking the second sentence.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall take effect on October 1, 2005.

10 **SEC. 1112. EXCLUSION FOR TRACTORS WEIGHING 19,500**
11 **POUNDS OR LESS FROM FEDERAL EXCISE**
12 **TAX ON HEAVY TRUCKS AND TRAILERS.**

13 (a) IN GENERAL.—Subsection (a) of section 4051
14 (relating to imposition of tax) is amended by redesignating
15 paragraph (4) as paragraph (5) and by inserting after
16 paragraph (3) the following new paragraph:

17 “(4) EXCLUSION FOR TRACTORS WEIGHING
18 19,500 POUNDS OR LESS.—The tax imposed by para-
19 graph (1) shall not apply to tractors of the kind
20 chiefly used for highway transportation in combina-
21 tion with a trailer or semitrailer if—

22 “(A) such tractor has a gross vehicle
23 weight of 19,500 pounds or less (as determined
24 by the Secretary), and



1 “(B) such tractor, in combination with a
2 trailer or semitrailer, has a gross combined
3 weight of 33,000 pounds or less (as determined
4 by the Secretary).”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply to sales after September 30, 2005.

7 **SEC. 1113. VOLUMETRIC EXCISE TAX CREDIT FOR ALTER-**
8 **NATIVE FUELS.**

9 (a) **IMPOSITION OF TAX.**—

10 (1) **IN GENERAL.**—Section 4041(a)(2)(B) (re-
11 lating to rate of tax) is amended—

12 (A) by adding “and” at the end of clause

13 (i),

14 (B) by striking clauses (ii) and (iii),

15 (C) by striking the last sentence, and

16 (D) by adding after clause (i) the following
17 new clause:

18 “(ii) in the case of liquefied natural
19 gas, any liquid fuel (other than ethanol
20 and methanol) derived from coal (including
21 peat), and liquid hydrocarbons derived
22 from biomass (as defined in section
23 29(c)(3)), 24.3 cents per gallon.”.



1 (2) TREATMENT OF COMPRESSED NATURAL
2 GAS.—Section 4041(a)(3) (relating to compressed
3 natural gas) is amended—

4 (A) by striking “48.54 cents per MCF (de-
5 termined at standard temperature and pres-
6 sure)” in subparagraph (A) and inserting “18.3
7 cents per energy equivalent of a gallon of gaso-
8 line”, and

9 (B) by striking “MCF” in subparagraph
10 (C) and inserting “energy equivalent of a gallon
11 of gasoline”.

12 (3) NEW REFERENCE.—The heading for para-
13 graph (2) of section 4041(a) is amended by striking
14 “SPECIAL MOTOR FUELS” and inserting “ALTER-
15 NATIVE FUELS”.

16 (b) CREDIT FOR ALTERNATIVE FUEL AND ALTER-
17 NATIVE FUEL MIXTURES.—

18 (1) IN GENERAL.—Section 6426(a) (relating to
19 allowance of credits) is amended to read as follows:
20 “(a) ALLOWANCE OF CREDITS.—There shall be al-
21 lowed as a credit—

22 “(1) against the tax imposed by section 4081
23 an amount equal to the sum of the credits described
24 in subsections (b), (c), and (e), and



1 “(2) against the tax imposed by section 4041
2 an amount equal to the sum of the credits described
3 in subsection (d).

4 No credit shall be allowed in the case of the credits de-
5 scribed in subsections (d) and (e) unless the taxpayer is
6 registered under section 4101.”.

7 (2) ALTERNATIVE FUEL AND ALTERNATIVE
8 FUEL MIXTURE CREDIT.—Section 6426 (relating to
9 credit for alcohol fuel and biodiesel mixtures) is
10 amended by redesignating subsections (d) and (e) as
11 subsections (f) and (g) and by inserting after sub-
12 section (c) the following new subsections:

13 “(d) ALTERNATIVE FUEL CREDIT.—

14 “(1) IN GENERAL.—For purposes of this sec-
15 tion, the alternative fuel credit is the product of 50
16 cents and the number of gallons of an alternative
17 fuel or gasoline gallon equivalents of a nonliquid al-
18 ternative fuel sold by the taxpayer for use as a fuel
19 in a motor vehicle or motorboat, or so used by the
20 taxpayer.

21 “(2) ALTERNATIVE FUEL.—For purposes of
22 this section, the term ‘alternative fuel’ means—

23 “(A) liquefied petroleum gas,



1 “(B) P Series Fuels (as defined by the
2 Secretary of Energy under section 13211(2) of
3 title 42, United States Code),

4 “(C) compressed or liquefied natural gas,

5 “(D) liquefied hydrogen,

6 “(E) any liquid fuel derived from coal (in-
7 cluding peat) through the Fischer-Tropsch
8 process, and

9 “(F) liquid hydrocarbons derived from bio-
10 mass (as defined in section 29(c)(3)).

11 Such term does not include ethanol, methanol, or
12 biodiesel.

13 “(3) GASOLINE GALLON EQUIVALENT.—For
14 purposes of this subsection, the term ‘gasoline gallon
15 equivalent’ means, with respect to any nonliquid al-
16 ternative fuel, the amount of such fuel having a Btu
17 content of 124,800 (higher heating value).

18 “(4) TERMINATION.—This subsection shall not
19 apply to any sale or use for any period after Sep-
20 tember 30, 2009 (September 30, 2014, in the case
21 of any sale or use involving liquefied hydrogen).

22 “(e) ALTERNATIVE FUEL MIXTURE CREDIT.—

23 “(1) IN GENERAL.—For purposes of this sec-
24 tion, the alternative fuel mixture credit is the prod-
25 uct of 50 cents and the number of gallons of alter-



1 native fuel used by the taxpayer in producing any al-
2 ternative fuel mixture for sale or use in a trade or
3 business of the taxpayer.

4 “(2) ALTERNATIVE FUEL MIXTURE.—For pur-
5 poses of this section, the term ‘alternative fuel mix-
6 ture’ means a mixture of alternative fuel and taxable
7 fuel (as defined in subparagraph (A), (B), or (C) of
8 section 4083(a)(1)) which—

9 “(A) is sold by the taxpayer producing
10 such mixture to any person for use as fuel, or

11 “(B) is used as a fuel by the taxpayer pro-
12 ducing such mixture.

13 “(3) TERMINATION.—This subsection shall not
14 apply to any sale or use for any period after Sep-
15 tember 30, 2009 (September 30, 2014, in the case
16 of any sale or use involving liquefied hydrogen).”.

17 (3) CONFORMING AMENDMENTS.—

18 (A) The section heading for section 6426
19 is amended by striking “**ALCOHOL FUEL AND**
20 **BIODIESEL**” and inserting “**ALCOHOL FUEL,**
21 **BIODIESEL, AND ALTERNATIVE FUEL**”.

22 (B) The table of sections for subchapter B
23 of chapter 65 is amended by striking “alcohol
24 fuel and biodiesel” in the item relating to sec-



1 tion 6426 and inserting “alcohol fuel, biodiesel,
2 and alternative fuel”.

3 (C) Section 6427(e) is amended—

4 (i) by inserting “or the alternative
5 fuel mixture credit” after “biodiesel mix-
6 ture credit” in paragraph (1),

7 (ii) by redesignating paragraph (2) as
8 paragraph (3) and paragraph (4) as para-
9 graph (5),

10 (iii) by inserting after paragraph (1)
11 the following new paragraph:

12 “(2) ALTERNATIVE FUEL.—If any person sells
13 or uses an alternative fuel (as defined in section
14 6426(d)(2)) for a purpose described in section
15 6426(d)(1) in such person’s trade or business, the
16 Secretary shall pay (without interest) to such person
17 an amount equal to the alternative fuel credit with
18 respect to such fuel.”,

19 (iv) by striking “under paragraph (1)
20 with respect to any mixture” in paragraph
21 (3) (as redesignated by clause (ii)) and in-
22 serting “under paragraph (1) or (2) with
23 respect to any mixture or alternative fuel”,



1 (v) by inserting after paragraph (3)
2 (as so redesignated) the following new
3 paragraph:

4 “(4) REGISTRATION REQUIREMENT FOR ALTER-
5 NATIVE FUELS.—The Secretary shall not make any
6 payment under this subsection to any person with
7 respect to any alternative fuel credit or alternative
8 fuel mixture credit unless the person is registered
9 under section 4101.”,

10 (vi) by striking “and” at the end of
11 paragraph (5)(A) (as redesignated by
12 clause (ii)),

13 (vii) by striking the period at the end
14 of paragraph (5)(B) (as so redesignated)
15 and inserting a comma,

16 (viii) by adding at the end of para-
17 graph (5) (as so redesignated) the fol-
18 lowing new subparagraphs:

19 “(C) except as provided in subparagraph
20 (D), any alternative fuel or alternative fuel mix-
21 ture (as defined in subsection (d)(2) or (e)(3)
22 of section 6426) sold or used after September
23 30, 2009, and

24 “(D) any alternative fuel or alternative
25 fuel mixture (as so defined) involving liquefied



1 hydrogen sold or used after September 30,
2 2014.”, and

3 (ix) by striking “OR BIODIESEL USED
4 TO PRODUCE ALCOHOL FUEL AND BIO-
5 DIESEL MIXTURES” in the heading and in-
6 serting “, BIODIESEL, OR ALTERNATIVE
7 FUEL”.

8 (c) ADDITIONAL REGISTRATION REQUIREMENTS.—
9 Section 4101(a)(1) (relating to registration) is amended
10 by striking “4041(a)(1)” and inserting “4041(a)”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to any sale or use for any period
13 after September 30, 2006.

14 **PART 2—AQUATIC EXCISE TAXES**

15 **SEC. 1115. ELIMINATION OF AQUATIC RESOURCES TRUST**
16 **FUND AND TRANSFORMATION OF SPORT**
17 **FISH RESTORATION ACCOUNT.**

18 (a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY
19 ACCOUNT.—

20 (1) IN GENERAL.—Paragraph (4) of section
21 9503(c) (relating to transfers from Trust Fund for
22 motorboat fuel taxes) is amended—

23 (A) by striking so much of that paragraph
24 as precedes subparagraph (D),



1 (B) by redesignating subparagraphs (D)
2 and (E) as subparagraphs (C) and (D), respec-
3 tively, and

4 (C) by inserting before subparagraph (C)
5 (as so redesignated) the following:

6 “(4) TRANSFERS FROM THE TRUST FUND FOR
7 MOTORBOAT FUEL TAXES.—

8 “(A) TRANSFER TO LAND AND WATER
9 CONSERVATION FUND.—

10 “(i) IN GENERAL.—The Secretary
11 shall pay from time to time from the High-
12 way Trust Fund into the land and water
13 conservation fund provided for in title I of
14 the Land and Water Conservation Fund
15 Act of 1965 amounts (as determined by
16 the Secretary) equivalent to the motorboat
17 fuel taxes received on or after October 1,
18 2005, and before October 1, 2011.

19 “(ii) LIMITATION.—The aggregate
20 amount transferred under this subpara-
21 graph during any fiscal year shall not ex-
22 ceed \$1,000,000.

23 “(B) EXCESS FUNDS TRANSFERRED TO
24 SPORT FISH RESTORATION AND BOATING TRUST



1 FUND.—Any amounts in the Highway Trust
2 Fund—

3 “(i) which are attributable to motor-
4 boat fuel taxes, and

5 “(ii) which are not transferred from
6 the Highway Trust Fund under subpara-
7 graph (A),
8 shall be transferred by the Secretary from the
9 Highway Trust Fund into the Sport Fish Res-
10 toration and Boating Trust Fund.”.

11 (2) CONFORMING AMENDMENT.—Paragraph (5)
12 of section 9503(c) is amended by striking “Account
13 in the Aquatic Resources” in subparagraph (A) and
14 inserting “and Boating”.

15 (b) MERGING OF ACCOUNTS.—

16 (1) IN GENERAL.—Subsection (a) of section
17 9504 is amended to read as follows:

18 “(a) CREATION OF TRUST FUND.—There is hereby
19 established in the Treasury of the United States a trust
20 fund to be known as the ‘Sport Fish Restoration and
21 Boating Trust Fund’. Such Trust Fund shall consist of
22 such amounts as may be appropriated, credited, or paid
23 to it as provided in this section, section 9503(c)(4), section
24 9503(c)(5), or section 9602(b).”.

25 (2) CONFORMING AMENDMENTS.—



1 (A) Subsection (b) of section 9504, as
2 amended by section 1101 of this Act, is
3 amended—

4 (i) by striking “ACCOUNT” in the
5 heading thereof and inserting “AND BOAT-
6 ING TRUST FUND”,

7 (ii) by striking “Account” both places
8 it appears in paragraphs (1) and (2) and
9 inserting “and Boating Trust Fund”, and

10 (iii) by striking “ACCOUNT” both
11 places it appears in the headings for para-
12 graphs (1) and (2) and inserting “TRUST
13 FUND”.

14 (B) Subsection (d) of section 9504, as
15 amended by section 1101 of this Act, is
16 amended—

17 (i) by striking “AQUATIC RE-
18 SOURCES” in the heading thereof,

19 (ii) by striking “any Account in the
20 Aquatic Resources” in paragraph (1) and
21 inserting “the Sport Fish Restoration and
22 Boating”, and

23 (iii) by striking “any such Account”
24 in paragraph (1) and inserting “such
25 Trust Fund”.



1 (C) Subsection (e) of section 9504 is
2 amended by striking “Boat Safety Account and
3 Sport Fish Restoration Account” and inserting
4 “Sport Fish Restoration and Boating Trust
5 Fund”.

6 (D) Section 9504 is amended by striking
7 “**AQUATIC RESOURCES**” in the heading there-
8 of and inserting “**SPORT FISH RESTORATION
9 AND BOATING**”.

10 (E) The item relating to section 9504 in
11 the table of sections for subchapter A of chap-
12 ter 98 is amended by striking “aquatic re-
13 sources” and inserting “sport fish restoration
14 and boating”.

15 (F) Paragraph (2) of section 1511(e) of
16 the Homeland Security Act of 2002 (6 U.S.C.
17 551(e)) is amended by striking “Aquatic Re-
18 sources Trust Fund of the Highway Trust
19 Fund” and inserting “Sport Fish Restoration
20 and Boating Trust Fund”.

21 (c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Sub-
22 section (c) of section 9504 is amended to read as follows:
23 “(c) EXPENDITURES FROM BOAT SAFETY AC-
24 COUNT.—Amounts remaining in the Boat Safety Account
25 on October 1, 2005, and amounts thereafter credited to



1 the Account under section 9602(b), shall be available,
2 without further appropriation, for making expenditures
3 before October 1, 2010, to carry out the purposes of sec-
4 tion 15 of the Dingell-Johnson Sport Fish Restoration Act
5 (as in effect on the date of the enactment of the Safe,
6 Accountable, Flexible, Efficient Transportation Equity
7 Act: A Legacy for Users). For purposes of section 9602,
8 the Boat Safety Account shall be treated as a Trust Fund
9 established by this subchapter.”.

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on October 1, 2005.

12 **SEC. 1116. REPEAL OF HARBOR MAINTENANCE TAX ON EX-**
13 **PORTS.**

14 (a) IN GENERAL.—Subsection (d) of section 4462
15 (relating to definitions and special rules) is amended to
16 read as follows:

17 “(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The
18 tax imposed by section 4461(a) shall not apply to any port
19 use with respect to any commercial cargo to be exported
20 from the United States.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 4461(c)(1) is amended by adding
23 “or” at the end of subparagraph (A), by striking
24 subparagraph (B), and by redesignating subpara-
25 graph (C) as subparagraph (B).



1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to articles sold by the manufac-
3 turer, producer, or importer after September 30, 2005.

4 **PART 3—AERIAL EXCISE TAXES**

5 **SEC. 1121. CLARIFICATION OF EXCISE TAX EXEMPTIONS**
6 **FOR AGRICULTURAL AERIAL APPLICATORS**
7 **AND EXEMPTION FOR FIXED-WING AIRCRAFT**
8 **ENGAGED IN FORESTRY OPERATIONS.**

9 (a) NO WAIVER BY FARM OWNER, TENANT, OR OP-
10 ERATOR NECESSARY.—Subparagraph (B) of section
11 6420(c)(4) (relating to certain farming use other than by
12 owner, etc.) is amended to read as follows:

13 “(B) if the person so using the gasoline is
14 an aerial or other applicator of fertilizers or
15 other substances and is the ultimate purchaser
16 of the gasoline, then subparagraph (A) of this
17 paragraph shall not apply and the aerial or
18 other applicator shall be treated as having used
19 such gasoline on a farm for farming purposes.”.

20 (b) EXEMPTION INCLUDES FUEL USED BETWEEN
21 AIRFIELD AND FARM.—Section 6420(c)(4), as amended
22 by subsection (a), is amended by adding at the end the
23 following new flush sentence:

24 “In the case of an aerial applicator, gasoline shall be
25 treated as used on a farm for farming purposes if



1 the gasoline is used for the direct flight between the
2 airfield and 1 or more farms.”.

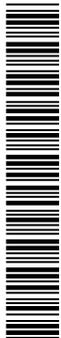
3 (c) EXEMPTION FROM TAX ON AIR TRANSPOR-
4 TATION OF PERSONS FOR FORESTRY PURPOSES EX-
5 TENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of
6 section 4261 (relating to tax on air transportation of per-
7 sons) is amended to read as follows:

8 “(f) EXEMPTION FOR CERTAIN USES.—No tax shall
9 be imposed under subsection (a) or (b) on air
10 transportation—

11 “(1) by helicopter for the purpose of trans-
12 porting individuals, equipment, or supplies in the ex-
13 ploration for, or the development or removal of, hard
14 minerals, oil, or gas, or

15 “(2) by helicopter or by fixed-wing aircraft for
16 the purpose of the planting, cultivation, cutting, or
17 transportation of, or caring for, trees (including log-
18 ging operations),

19 but only if the helicopter or fixed-wing aircraft does not
20 take off from, or land at, a facility eligible for assistance
21 under the Airport and Airway Development Act of 1970,
22 or otherwise use services provided pursuant to section
23 44509 or 44913(b) or subchapter I of chapter 471 of title
24 49, United States Code, during such use. In the case of
25 helicopter transportation described in paragraph (1), this



1 subsection shall be applied by treating each flight segment
2 as a distinct flight.”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to fuel use or air transportation
5 after September 30, 2005.

6 **SEC. 1122. MODIFICATION OF RURAL AIRPORT DEFINITION.**

7 (a) IN GENERAL.—Section 4261(e)(1)(B) (defining
8 rural airport) is amended—

9 (1) by inserting “(in the case of any airport de-
10 scribed in clause (ii)(III), on flight segments of at
11 least 100 miles)” after “by air” in clause (i), and

12 (2) by striking “or” at the end of subclause (I)
13 of clause (ii), by striking the period at the end of
14 subclause (II) of clause (ii) and inserting “, or”, and
15 by adding at the end of clause (ii) the following new
16 subclause:

17 “(III) is not connected by paved
18 roads to another airport.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on October 1, 2005.

21 **SEC. 1123. EXEMPTION FROM TAXES ON TRANSPORTATION**

22 **PROVIDED BY SEAPLANES.**

23 (a) IN GENERAL.—Section 4261 (relating to imposi-
24 tion of tax) is amended by redesignating subsection (i) as



1 subsection (j) and by inserting after subsection (h) the fol-
2 lowing new subsection:

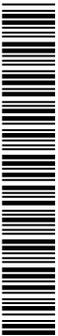
3 “(i) EXEMPTION FOR SEAPLANES.—No tax shall be
4 imposed by this section or section 4271 on any air trans-
5 portation by a seaplane with respect to any segment con-
6 sisting of a takeoff from, and a landing on, water, but
7 only if the places at which such takeoff and landing occur
8 have not received and are not receiving financial assist-
9 ance from the Airport and Airways Trust Fund.”.

10 (b) RATE OF FUEL TAX FOR SEAPLANES SUBJECT
11 TO EXEMPTION.—Subsection (b) of section 4083 is
12 amended by striking “section 4261(h)” and inserting
13 “subsection (h) or (i) of section 4261”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to transportation beginning after
16 September 30, 2005.

17 **SEC. 1124. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM**
18 **TAXES ON AIR TRANSPORTATION.**

19 (a) IN GENERAL.—Section 4281 (relating to small
20 aircraft on nonestablished lines) is amended by adding at
21 the end the following new sentence: “For purposes of this
22 section, an aircraft shall not be considered as operated on
23 an established line at any time during which such aircraft
24 is being operated on a flight the sole purpose of which
25 is sightseeing.”.



1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply with respect to transportation be-
3 ginning after September 30, 2005, but shall not apply to
4 any amount paid before such date for such transportation.

5 **PART 4—TAXES RELATING TO ALCOHOL**

6 **SEC. 1125. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON**
7 **PRODUCERS AND MARKETERS OF ALCO-**
8 **HOLIC BEVERAGES.**

9 (a) REPEAL OF OCCUPATIONAL TAXES.—

10 (1) IN GENERAL.—The following provisions of
11 part II of subchapter A of chapter 51 (relating to
12 occupational taxes) are hereby repealed:

13 (A) Subpart A (relating to proprietors of
14 distilled spirits plants, bonded wine cellars,
15 etc.).

16 (B) Subpart B (relating to brewer).

17 (C) Subpart D (relating to wholesale deal-
18 ers) (other than sections 5114 and 5116).

19 (D) Subpart E (relating to retail dealers)
20 (other than section 5124).

21 (E) Subpart G (relating to general provi-
22 sions) (other than sections 5142, 5143, 5145,
23 and 5146).



1 (2) NONBEVERAGE DOMESTIC DRAWBACK.—
2 Section 5131 is amended by striking “, on payment
3 of a special tax per annum,”.

4 (3) INDUSTRIAL USE OF DISTILLED SPIRITS.—
5 Section 5276 is hereby repealed.

6 (b) CONFORMING AMENDMENTS.—

7 (1)(A) The heading for part II of subchapter A
8 of chapter 51 and the table of subparts for such
9 part are amended to read as follows:

10 **“PART II—MISCELLANEOUS PROVISIONS**

“Subpart A. Manufacturers of stills.

“Subpart B. Nonbeverage domestic drawback claimants.

“Subpart C. Recordkeeping by dealers.

“Subpart D. Other provisions.”.

11 (B) The table of parts for such subchapter A
12 is amended by striking the item relating to part II
13 and inserting the following new item:

“Part II. Miscellaneous provisions.”.

14 (2) Subpart C of part II of such subchapter
15 (relating to manufacturers of stills) is redesignated
16 as subpart A.

17 (3)(A) Subpart F of such part II (relating to
18 nonbeverage domestic drawback claimants) is rededesignated as subpart B and sections 5131 through
19 5134 are redesignated as sections 5111 through
20 5114, respectively.
21



1 (B) The table of sections for such subpart B,
2 as so redesignated, is amended—

3 (i) by redesignating the items relating to
4 sections 5131 through 5134 as relating to sec-
5 tions 5111 through 5114, respectively, and

6 (ii) by striking “and rate of tax” in the
7 item relating to section 5111, as so redesign-
8 ated.

9 (C) Section 5111, as redesignated by subpara-
10 graph (A), is amended—

11 (i) by striking “**AND RATE OF TAX**” in
12 the section heading,

13 (ii) by striking the subsection heading for
14 subsection (a), and

15 (iii) by striking subsection (b).

16 (4) Part II of subchapter A of chapter 51 is
17 amended by adding after subpart B, as redesignated
18 by paragraph (3), the following new subpart:

19 **“Subpart C—Recordkeeping and Registration by**

20 **Dealers**

“Sec. 5121. Recordkeeping by wholesale dealers.

“Sec. 5122. Recordkeeping by retail dealers.

“Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.

“Sec. 5124. Registration by dealers.”



1 (5)(A) Section 5114 (relating to records) is
2 moved to subpart C of such part II and inserted
3 after the table of sections for such subpart.

4 (B) Section 5114 is amended—

5 (i) by striking the section heading and in-
6 serting the following new heading:

7 **“SEC. 5432. RECORDKEEPING BY WHOLESALE DEALERS.”**

8 , and

9 (ii) by redesignating subsection (c) as sub-
10 section (d) and by inserting after subsection (b) the
11 following new subsection:

12 **“(c) WHOLESALE DEALERS.—**For purposes of this
13 part—

14 **“(1) WHOLESALE DEALER IN LIQUORS.—**The
15 term ‘wholesale dealer in liquors’ means any dealer
16 (other than a wholesale dealer in beer) who sells, or
17 offers for sale, distilled spirits, wines, or beer, to an-
18 other dealer.

19 **“(2) WHOLESALE DEALER IN BEER.—**The term
20 ‘wholesale dealer in beer’ means any dealer who
21 sells, or offers for sale, beer, but not distilled spirits
22 or wines, to another dealer.

23 **“(3) DEALER.—**The term ‘dealer’ means any
24 person who sells, or offers for sale, any distilled spir-
25 its, wines, or beer.



1 “(4) PRESUMPTION IN CASE OF SALE OF 20
2 WINE GALLONS OR MORE.—The sale, or offer for
3 sale, of distilled spirits, wines, or beer, in quantities
4 of 20 wine gallons or more to the same person at
5 the same time, shall be presumptive evidence that
6 the person making such sale, or offer for sale, is en-
7 gaged in or carrying on the business of a wholesale
8 dealer in liquors or a wholesale dealer in beer, as the
9 case may be. Such presumption may be overcome by
10 evidence satisfactorily showing that such sale, or
11 offer for sale, was made to a person other than a
12 dealer.”.

13 (C) Paragraph (3) of section 5121(d), as so re-
14 designated, is amended by striking “section 5146”
15 and inserting “section 5123”.

16 (6)(A) Section 5124 (relating to records) is
17 moved to subpart C of part II of subchapter A of
18 chapter 51 and inserted after section 5121.

19 (B) Section 5124 is amended—

20 (i) by striking the section heading and in-
21 serting the following new heading:

22 **“SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.”,**

23 (ii) by striking “section 5146” in subsection (c)
24 and inserting “section 5123”, and



1 (iii) by redesignating subsection (c) as sub-
2 section (d) and inserting after subsection (b) the fol-
3 lowing new subsection:

4 “(c) RETAIL DEALERS.—For purposes of this
5 section—

6 “(1) RETAIL DEALER IN LIQUORS.—The term
7 ‘retail dealer in liquors’ means any dealer (other
8 than a retail dealer in beer or a limited retail dealer)
9 who sells, or offers for sale, distilled spirits, wines,
10 or beer, to any person other than a dealer.

11 “(2) RETAIL DEALER IN BEER.—The term ‘re-
12 tail dealer in beer’ means any dealer (other than a
13 limited retail dealer) who sells, or offers for sale,
14 beer, but not distilled spirits or wines, to any person
15 other than a dealer.

16 “(3) LIMITED RETAIL DEALER.—The term ‘lim-
17 ited retail dealer’ means any fraternal, civic, church,
18 labor, charitable, benevolent, or ex-servicemen’s or-
19 ganization making sales of distilled spirits, wine or
20 beer on the occasion of any kind of entertainment,
21 dance, picnic, bazaar, or festival held by it, or any
22 person making sales of distilled spirits, wine or beer
23 to the members, guests, or patrons of bona fide
24 fairs, reunions, picnics, carnivals, or other similar



1 outings, if such organization or person is not other-
2 wise engaged in business as a dealer.

3 “(4) DEALER.—The term ‘dealer’ has the
4 meaning given such term by section 5121(c)(3).”.

5 (7) Section 5146 is moved to subpart C of part
6 II of subchapter A of chapter 51, inserted after sec-
7 tion 5122, and redesignated as section 5123.

8 (8) Subpart C of part II of subchapter A of
9 chapter 51, as amended by paragraph (7), is amend-
10 ed by adding at the end the following new section:

11 **“SEC. 5124. REGISTRATION BY DEALERS.**

12 “Every dealer who is subject to the recordkeeping re-
13 quirements under section 5121 or 5122 shall register with
14 the Secretary such dealer’s name or style, place of resi-
15 dence, trade or business, and the place where such trade
16 or business is to be carried on. In the case of a firm or
17 company, the names of the several persons constituting
18 the same, and the places of residence, shall be so reg-
19 istered.”.

20 (9) Section 7012 is amended by redesignating
21 paragraphs (4) and (5) as paragraphs (5) and (6),
22 respectively, and by inserting after paragraph (3)
23 the following new paragraph:



1 “(4) For provisions relating to registration by
2 dealers in distilled spirits, wines, and beer, see sec-
3 tion 5124.”.

4 (10) Part II of subchapter A of chapter 51 is
5 amended by inserting after subpart C the following
6 new subpart:

7 **“Subpart D—Other Provisions**

 “Sec. 5131. Packaging distilled spirits for industrial uses.

 “Sec. 5132. Prohibited purchases by dealers.”.

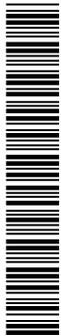
8 (11) Section 5116 is moved to subpart D of
9 part II of subchapter A of chapter 51, inserted after
10 the table of sections, redesignated as section 5131,
11 and amended by inserting “(as defined in section
12 5121(c))” after “dealer” in subsection (a).

13 (12) Subpart D of part II of subchapter A of
14 chapter 51 is amended by adding at the end the fol-
15 lowing new section:

16 **“SEC. 5132. PROHIBITED PURCHASES BY DEALERS.**

17 “(a) IN GENERAL.—Except as provided in regula-
18 tions prescribed by the Secretary, it shall be unlawful for
19 a dealer to purchase distilled spirits for resale from any
20 person other than a wholesale dealer in liquors who is re-
21 quired to keep the records prescribed by section 5121.

22 “(b) LIMITED RETAIL DEALERS.—A limited retail
23 dealer may lawfully purchase distilled spirits for resale
24 from a retail dealer in liquors.



1 “(c) PENALTY AND FORFEITURE.—

 “For penalty and forfeiture provisions applicable to violations of subsection (a),
 see sections 5687 and 7302.”.

2 (13) Subsection (b) of section 5002 is
3 amended—

4 (A) by striking “section 5112(a)” and in-
5 serting “section 5121(c)(3)”,

6 (B) by striking “section 5112” and insert-
7 ing “section 5121(c)”, and

8 (C) by striking “section 5122” and insert-
9 ing “section 5122(c)”.

10 (14) Subparagraph (A) of section 5010(c)(2) is
11 amended by striking “section 5134” and inserting
12 “section 5114”.

13 (15) Subsection (d) of section 5052 is amended
14 to read as follows:

15 “(d) BREWER.—For purposes of this chapter, the
16 term ‘brewer’ means any person who brews beer or pro-
17 duces beer for sale. Such term shall not include any person
18 who produces only beer exempt from tax under section
19 5053(e).”.

20 (16) The text of section 5182 is amended to
21 read as follows:

 “For provisions requiring recordkeeping by wholesale liquor dealers, see section
 5112, and by retail liquor dealers, see section 5122.”.



1 (17) Subsection (b) of section 5402 is amended
2 by striking “section 5092” and inserting “section
3 5052(d)”.

4 (18) Section 5671 is amended by striking “or
5 5091”.

6 (19)(A) Part V of subchapter J of chapter 51
7 is hereby repealed.

8 (B) The table of parts for such subchapter J is
9 amended by striking the item relating to part V.

10 (20)(A) Sections 5142, 5143, and 5145 are
11 moved to subchapter D of chapter 52, inserted after
12 section 5731, redesignated as sections 5732, 5733,
13 and 5734, respectively, and amended by striking
14 “this part” each place it appears and inserting “this
15 subchapter”.

16 (B) Section 5732, as redesignated by subpara-
17 graph (A), is amended by striking “(except the tax
18 imposed by section 5131)” each place it appears.

19 (C) Paragraph (2) of section 5733(c), as redesi-
20 gnated by subparagraph (A), is amended by striking
21 “liquors” both places it appears and inserting “to-
22 bacco products and cigarette papers and tubes”.

23 (D) The table of sections for subchapter D of
24 chapter 52 is amended by adding at the end the fol-
25 lowing:

“Sec. 5732. Payment of tax.



“Sec. 5733. Provisions relating to liability for occupational taxes.
“Sec. 5734. Application of State laws.”.

1 (E) Section 5731 is amended by striking sub-
2 section (e) and by redesignating subsection (d) as
3 subsection (e).

4 (21) Subsection (e) of section 6071 is amended
5 by striking “section 5142” and inserting “section
6 5732”.

7 (22) Paragraph (1) of section 7652(g) is
8 amended—

9 (A) by striking “subpart F” and inserting
10 “subpart B”, and

11 (B) by striking “section 5131(a)” and in-
12 serting “section 5111”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on July 1, 2008, but shall
15 not apply to taxes imposed for periods before such date.

16 **SEC. 1126. INCOME TAX CREDIT FOR DISTILLED SPIRITS**
17 **WHOLESALE AND FOR DISTILLED SPIRITS**
18 **IN CONTROL STATE BAILMENT WAREHOUSES**
19 **FOR COSTS OF CARRYING FEDERAL EXCISE**
20 **TAXES ON BOTTLED DISTILLED SPIRITS.**

21 (a) IN GENERAL.—Subpart A of part I of subchapter
22 A of chapter 51 (relating to gallonage and occupational
23 taxes) is amended by adding at the end the following new
24 section:



1 **“SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF**
2 **CARRYING EXCISE TAX.**

3 “(a) IN GENERAL.—For purposes of section 38, the
4 amount of the distilled spirits credit for any taxable year
5 is the amount equal to the product of—

6 “(1) in the case of—

7 “(A) any eligible wholesaler, the number of
8 cases of bottled distilled spirits—

9 “(i) which were bottled in the United
10 States, and

11 “(ii) which are purchased by such
12 wholesaler during the taxable year directly
13 from the bottler of such spirits, or

14 “(B) any person which is subject to section
15 5005 and which is not an eligible wholesaler,
16 the number of cases of bottled distilled spirits
17 which are stored in a warehouse operated by, or
18 on behalf of, a State or political subdivision
19 thereof, or an agency of either, on which title
20 has not passed on an unconditional sale basis,
21 and

22 “(2) the average tax-financing cost per case for
23 the most recent calendar year ending before the be-
24 ginning of such taxable year.

25 “(b) ELIGIBLE WHOLESALER.—For purposes of this
26 section, the term ‘eligible wholesaler’ means any person



1 which holds a permit under the Federal Alcohol Adminis-
2 tration Act as a wholesaler of distilled spirits which is not
3 a State or political subdivision thereof, or an agency of
4 either.

5 “(c) AVERAGE TAX-FINANCING COST.—

6 “(1) IN GENERAL.—For purposes of this sec-
7 tion, the average tax-financing cost per case for any
8 calendar year is the amount of interest which would
9 accrue at the deemed financing rate during a 60-day
10 period on an amount equal to the deemed Federal
11 excise tax per case.

12 “(2) DEEMED FINANCING RATE.—For purposes
13 of paragraph (1), the deemed financing rate for any
14 calendar year is the average of the corporate over-
15 payment rates under paragraph (1) of section
16 6621(a) (determined without regard to the last sen-
17 tence of such paragraph) for calendar quarters of
18 such year.

19 “(3) DEEMED FEDERAL EXCISE TAX PER
20 CASE.—For purposes of paragraph (1), the deemed
21 Federal excise tax per case is \$25.68.

22 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—
23 For purposes of this section—

24 “(1) CASE.—The term ‘case’ means 12 80-
25 proof 750-milliliter bottles.



1 by inserting after paragraph (3) the following new para-
2 graph:

3 “(4) TAXPAYERS LIABLE FOR TAXES OF NOT
4 MORE THAN \$50,000.—

5 “(A) IN GENERAL.—In the case of any
6 taxpayer who reasonably expects to be liable for
7 not more than \$50,000 in taxes imposed with
8 respect to distilled spirits, wines, and beer
9 under subparts A, C, and D and section 7652
10 for the calendar year and who was liable for not
11 more than \$50,000 in such taxes in the pre-
12 ceding calendar year, the last day for the pay-
13 ment of tax on withdrawals, removals, and en-
14 tries (and articles brought into the United
15 States from Puerto Rico) under bond for de-
16 ferred payment shall be the 14th day after the
17 last day of the calendar quarter during which
18 the action giving rise to the imposition of such
19 tax occurs.

20 “(B) NO APPLICATION AFTER LIMIT EX-
21 CEDED.—Subparagraph (A) shall not apply to
22 any taxpayer for any portion of the calendar
23 year following the first date on which the aggre-
24 gate amount of tax due under subparts A, C,
25 and D and section 7652 from such taxpayer



1 during such calendar year exceeds \$50,000, and
2 any tax under such subparts which has not
3 been paid on such date shall be due on the 14th
4 day after the last day of the semimonthly pe-
5 riod in which such date occurs.

6 “(C) CALENDAR QUARTER.—For purposes
7 of this paragraph, the term ‘calendar quarter’
8 means the three-month period ending on March
9 31, June 30, September 30, or December 31.”.

10 (b) CONFORMING AMENDMENT.—Section
11 5061(d)(6), as redesignated by subsection (a), is amended
12 by striking “paragraph (4)” and inserting “paragraph
13 (5)”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply with respect to quarterly periods
16 beginning on and after January 1, 2006.

17 **PART 5—SPORT EXCISE TAXES**

18 **SEC. 1131. CUSTOM GUNSMITHS.**

19 (a) SMALL MANUFACTURERS EXEMPT FROM FIRE-
20 ARMS EXCISE TAX.—Section 4182 (relating to exemp-
21 tions) is amended by redesignating subsection (c) as sub-
22 section (d) and by inserting after subsection (b) the fol-
23 lowing new subsection:

24 “(c) SMALL MANUFACTURERS, ETC.—



1 “(1) IN GENERAL.—The tax imposed by section
2 4181 shall not apply to any pistol, revolver, or fire-
3 arm described in such section if manufactured, pro-
4 duced, or imported by a person who manufactures,
5 produces, and imports less than an aggregate of 50
6 of such articles during the calendar year.

7 “(2) CONTROLLED GROUPS.—All persons treat-
8 ed as a single employer for purposes of subsection
9 (a) or (b) of section 52 shall be treated as one per-
10 son for purposes of paragraph (1).”.

11 (b) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by
13 this section shall apply to articles sold by the manu-
14 facturer, producer, or importer after September 30,
15 2005.

16 (2) NO INFERENCE.—Nothing in the amend-
17 ments made by this section shall be construed to
18 create any inference with respect to the proper tax
19 treatment of any sales before the effective date of
20 such amendments.



1 **Subtitle C—Miscellaneous**
2 **Provisions**

3 **SEC. 1141. MOTOR FUEL TAX ENFORCEMENT ADVISORY**
4 **COMMISSION.**

5 (a) **ESTABLISHMENT.**—There is established a Motor
6 Fuel Tax Enforcement Advisory Commission (in this sec-
7 tion referred to as the “Commission”).

8 (b) **FUNCTION.**—The Commission shall—

9 (1) review motor fuel revenue collections, histor-
10 ical and current;

11 (2) review the progress of investigations with
12 respect to motor fuel taxes;

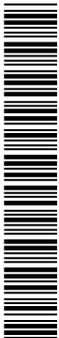
13 (3) develop and review legislative proposals with
14 respect to motor fuel taxes;

15 (4) monitor the progress of administrative regu-
16 lation projects relating to motor fuel taxes;

17 (5) review the results of Federal and State
18 agency cooperative efforts regarding motor fuel
19 taxes;

20 (6) review the results of Federal interagency co-
21 operative efforts regarding motor fuel taxes; and

22 (7) evaluate and make recommendations to the
23 President and Congress regarding—



1 (A) the effectiveness of existing Federal
2 enforcement programs regarding motor fuel
3 taxes,

4 (B) enforcement personnel allocation, and

5 (C) proposals for regulatory projects, legis-
6 lation, and funding.

7 (c) MEMBERSHIP.—

8 (1) APPOINTMENT.—The Commission shall be
9 composed of the following representatives appointed
10 by the Chairmen and the Ranking Members of the
11 Committee on Finance of the Senate and the Com-
12 mittee on Ways and Means of the House of Rep-
13 resentatives:

14 (A) At least 1 representative from each of
15 the following Federal entities: the Department
16 of Homeland Security, the Department of
17 Transportation—Office of Inspector General,
18 the Federal Highway Administration, the De-
19 partment of Defense, and the Department of
20 Justice.

21 (B) At least 1 representative from the
22 Federation of State Tax Administrators.

23 (C) At least 1 representative from any
24 State department of transportation.



1 (D) 2 representatives from the highway
2 construction industry.

3 (E) 6 representatives from industries relat-
4 ing to fuel distribution — refiners (2 represent-
5 atives), distributors (1 representative), pipelines
6 (1 representative), and terminal operators (2
7 representatives).

8 (F) 1 representative from the retail fuel in-
9 dustry.

10 (G) 2 representatives from the staff of the
11 Committee on Finance of the Senate and 2 rep-
12 resentatives from the staff of the Committee on
13 Ways and Means of the House of Representa-
14 tives.

15 (2) TERMS.—Members shall be appointed for
16 the life of the Commission.

17 (3) VACANCIES.—A vacancy in the Commission
18 shall be filled in the manner in which the original
19 appointment was made.

20 (4) TRAVEL EXPENSES.—Members shall serve
21 without pay but shall receive travel expenses, includ-
22 ing per diem in lieu of subsistence, in accordance
23 with sections 5702 and 5703 of title 5, United
24 States Code.



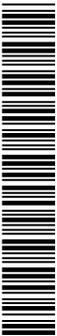
1 (5) CHAIRMAN.—The Chairman of the Commis-
2 sion shall be elected by the members.

3 (d) FUNDING.—Such sums as are necessary shall be
4 available from the Highway Trust fund for the expenses
5 of the Commission.

6 (e) CONSULTATION.—Upon request of the Commis-
7 sion, representatives of the Department of the Treasury
8 and the Internal Revenue Service shall be available for
9 consultation to assist the Commission in carrying out its
10 duties under this section.

11 (f) OBTAINING DATA.—The Commission may secure
12 directly from any department or agency of the United
13 States, information (other than information required by
14 any law to be kept confidential by such department or
15 agency) necessary for the Commission to carry out its du-
16 ties under this section. Upon request of the Commission,
17 the head of that department or agency shall furnish such
18 nonconfidential information to the Commission. The Com-
19 mission shall also gather evidence through such means as
20 it may deem appropriate, including through holding hear-
21 ings and soliciting comments by means of Federal Reg-
22 ister notices.

23 (g) TERMINATION.—The Commission shall terminate
24 as of the close of September 30, 2009.



1 **SEC. 1142. NATIONAL SURFACE TRANSPORTATION INFRA-**
2 **STRUCTURE FINANCING COMMISSION.**

3 (a) ESTABLISHMENT.—There is established a Na-
4 tional Surface Transportation Infrastructure Financing
5 Commission (in this section referred to as the “Commis-
6 sion”). The Commission shall hold its first meeting within
7 90 days of the appointment of the eighth individual to be
8 named to the Commission.

9 (b) FUNCTION.—

10 (1) IN GENERAL.—The Commission shall, with
11 respect to the period beginning on the date of the
12 enactment of this Act and ending before 2016—

13 (A) make a thorough investigation and
14 study of revenues flowing into the Highway
15 Trust Fund under current law, including the in-
16 dividual components of the overall flow of such
17 revenues;

18 (B) consider whether the amount of such
19 revenues is likely to increase, decline, or remain
20 unchanged, absent changes in the law, particu-
21 larly by taking into account the impact of pos-
22 sible changes in public vehicular choice, fuel
23 use, or travel alternatives that could be ex-
24 pected to reduce or increase revenues into the
25 Highway Trust Fund;



1 (C) consider alternative approaches to gen-
2 erating revenues for the Highway Trust Fund,
3 and the level of revenues that such alternatives
4 would yield;

5 (D) consider highway and transit needs
6 and whether additional revenues into the High-
7 way Trust Fund, or other Federal revenues
8 dedicated to highway and transit infrastructure,
9 would be required in order to meet such needs;

10 (E) consider a program that would exempt
11 all or a portion of gasoline or other motor fuels
12 used in a State from the Federal excise tax on
13 such gasoline or other motor fuels if such State
14 elects not to receive all or a portion of Federal
15 transportation funding, including—

16 (i) whether such State should be re-
17 quired to increase State gasoline or other
18 motor fuels taxes by the amount of the de-
19 crease in the Federal excise tax on such
20 gasoline or other motor fuels;

21 (ii) whether any Federal transpor-
22 tation funding should not be reduced or
23 eliminated for States participating in such
24 program; and



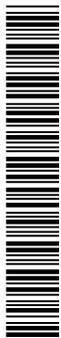
1 (iii) whether there are any compliance
2 problems related to enforcement of Federal
3 transportation-related excise taxes under
4 such program; and

5 (F) study such other matters closely re-
6 lated to the subjects described in the preceding
7 subparagraphs as it may deem appropriate.

8 (2) PREPARATION OF REPORT.—Based on such
9 investigation and study, the Commission shall de-
10 velop a final report, with recommendations and the
11 bases for those recommendations, indicating policies
12 that should be adopted, or not adopted, to achieve
13 various levels of annual revenue for the Highway
14 Trust Fund and to enable the Highway Trust Fund
15 to receive revenues sufficient to meet highway and
16 transit needs. Such recommendations shall address,
17 among other matters as the Commission may deem
18 appropriate—

19 (A) what levels of revenue are required by
20 the Federal Highway Trust Fund in order for
21 it to meet needs to maintain and improve the
22 condition and performance of the Nation's high-
23 way and transit systems;

24 (B) what levels of revenue are required by
25 the Federal Highway Trust Fund in order to



1 ensure that Federal levels of investment in
2 highways and transit do not decline in real
3 terms; and

4 (C) the extent, if any, to which the High-
5 way Trust Fund should be augmented by other
6 mechanisms or funds as a Federal means of fi-
7 nancing highway and transit infrastructure in-
8 vestments.

9 (c) MEMBERSHIP.—

10 (1) APPOINTMENT.—The Commission shall be
11 composed of 15 members, appointed as follows:

12 (A) 7 members appointed by the Secretary
13 of Transportation, in consultation with the Sec-
14 retary of the Treasury.

15 (B) 2 members appointed by the Chairman
16 of the Committee on Ways and Means of the
17 House of Representatives.

18 (C) 2 members appointed by the Ranking
19 Minority Member of the Committee on Ways
20 and Means of the House of Representatives.

21 (D) 2 members appointed by the Chairman
22 of the Committee on Finance of the Senate.

23 (E) 2 members appointed by the Ranking
24 Minority Member of the Committee on Finance
25 of the Senate.



1 (2) QUALIFICATIONS.—Members appointed pur-
2 suant to paragraph (1) shall be appointed from
3 among individuals knowledgeable in the fields of
4 public transportation finance or highway and transit
5 programs, policy, and needs, and may include rep-
6 resentatives of interested parties, such as State and
7 local governments or other public transportation au-
8 thorities or agencies, representatives of the transpor-
9 tation construction industry (including suppliers of
10 technology, machinery, and materials), transpor-
11 tation labor (including construction and providers),
12 transportation providers, the financial community,
13 and users of highway and transit systems.

14 (3) TERMS.—Members shall be appointed for
15 the life of the Commission.

16 (4) VACANCIES.—A vacancy in the Commission
17 shall be filled in the manner in which the original
18 appointment was made.

19 (5) TRAVEL EXPENSES.—Members shall serve
20 without pay but shall receive travel expenses, includ-
21 ing per diem in lieu of subsistence, in accordance
22 with sections 5702 and 5703 of title 5, United
23 States Code.

24 (6) CHAIRMAN.—The Chairman of the Commis-
25 sion shall be elected by the members.



1 (d) STAFF.—The Commission may appoint and fix
2 the pay of such personnel as it considers appropriate.

3 (e) FUNDING.—Funding for the Commission shall be
4 provided by the Secretary of the Treasury and by the Sec-
5 retary of Transportation, out of funds available to those
6 agencies for administrative and policy functions.

7 (f) STAFF OF FEDERAL AGENCIES.—Upon request
8 of the Commission, the head of any department or agency
9 of the United States may detail any of the personnel of
10 that department or agency to the Commission to assist
11 in carrying out its duties under this section.

12 (g) OBTAINING DATA.—The Commission may secure
13 directly from any department or agency of the United
14 States, information (other than information required by
15 any law to be kept confidential by such department or
16 agency) necessary for the Commission to carry out its du-
17 ties under this section. Upon request of the Commission,
18 the head of that department or agency shall furnish such
19 nonconfidential information to the Commission. The Com-
20 mission shall also gather evidence through such means as
21 it may deem appropriate, including through holding hear-
22 ings and soliciting comments by means of Federal Reg-
23 ister notices.

24 (h) REPORT.—Not later than 2 years after the date
25 of its first meeting, the Commission shall transmit its final



1 report, including recommendations, to the Secretary of
2 Transportation, the Secretary of the Treasury, and the
3 Committee on Ways and Means of the House of Rep-
4 resentatives, the Committee on Finance of the Senate, the
5 Committee on Transportation and Infrastructure of the
6 House of Representatives, the Committee on Environment
7 and Public Works of the Senate, and the Committee on
8 Banking, Housing, and Urban Affairs of the Senate.

9 (i) TERMINATION.—The Commission shall terminate
10 on the 180th day following the date of transmittal of the
11 report under subsection (h). All records and papers of the
12 Commission shall thereupon be delivered to the Adminis-
13 trator of General Services for deposit in the National Ar-
14 chives.

15 **SEC. 1143. TAX-EXEMPT FINANCING OF HIGHWAY**
16 **PROJECTS AND RAIL-TRUCK TRANSFER FA-**
17 **CILITIES.**

18 (a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-
19 section (a) of section 142 (relating to exempt facility
20 bond) is amended by striking “or” at the end of paragraph
21 (13), by striking the period at the end of paragraph (14)
22 and inserting “, or”, and by adding at the end the fol-
23 lowing new paragraph:

24 “(15) qualified highway or surface freight
25 transfer facilities.”.



1 (b) QUALIFIED HIGHWAY OR SURFACE FREIGHT
2 TRANSFER FACILITIES.—Section 142 is amended by add-
3 ing at the end the following:

4 “(m) QUALIFIED HIGHWAY OR SURFACE FREIGHT
5 TRANSFER FACILITIES.—

6 “(1) IN GENERAL.—For purposes of subsection
7 (a)(15), the term ‘qualified highway or surface
8 freight transfer facilities’ means—

9 “(A) any surface transportation project
10 which receives Federal assistance under title
11 23, United States Code (as in effect on the date
12 of the enactment of this subsection),

13 “(B) any project for an international
14 bridge or tunnel for which an international enti-
15 ty authorized under Federal or State law is re-
16 sponsible and which receives Federal assistance
17 under title 23, United States Code (as so in ef-
18 fect), or

19 “(C) any facility for the transfer of freight
20 from truck to rail or rail to truck (including
21 any temporary storage facilities directly related
22 to such transfers) which receives Federal assist-
23 ance under either title 23 or title 49, United
24 States Code (as so in effect).



1 “(2) NATIONAL LIMITATION ON AMOUNT OF
2 TAX-EXEMPT FINANCING FOR FACILITIES.—

3 “(A) NATIONAL LIMITATION.—The aggregate
4 amount allocated by the Secretary of
5 Transportation under subparagraph (C) shall
6 not exceed \$15,000,000,000.

7 “(B) ENFORCEMENT OF NATIONAL LIMITATION.—An issue shall not be treated as an
8 issue described in subsection (a)(15) if the aggregate
9 face amount of bonds issued pursuant
10 to such issue for any qualified highway or surface
11 freight transfer facility (when added to the
12 aggregate face amount of bonds previously so
13 issued for such facility) exceeds the amount allocated
14 to such facility under subparagraph (C).

15 “(C) ALLOCATION BY SECRETARY OF
16 TRANSPORTATION.—The Secretary of Transportation
17 shall allocate the amount described in
18 subparagraph (A) among qualified highway or
19 surface freight transfer facilities in such manner
20 as the Secretary determines appropriate.

21 “(3) EXPENDITURE OF PROCEEDS.—An issue
22 shall not be treated as an issue described in subsection
23 (a)(15) unless at least 95 percent of the net
24 proceeds of the issue is expended for qualified high-
25

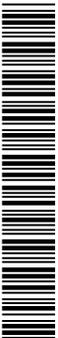


1 way or surface freight transfer facilities within the
2 5-year period beginning on the date of issuance. If
3 at least 95 percent of such net proceeds is not ex-
4 pended within such 5-year period, an issue shall be
5 treated as continuing to meet the requirements of
6 this paragraph if the issuer uses all unspent pro-
7 ceeds of the issue to redeem bonds of the issue with-
8 in 90 days after the end of such 5-year period. The
9 Secretary, at the request of the issuer, may extend
10 such 5-year period if the issuer establishes that any
11 failure to meet such period is due to circumstances
12 beyond the control of the issuer.

13 “(4) EXCEPTION FOR CURRENT REFUNDING
14 BONDS.—Paragraph (2) shall not apply to any bond
15 (or series of bonds) issued to refund a bond issued
16 under subsection (a)(15) if—

17 “(A) the average maturity date of the issue
18 of which the refunding bond is a part is not
19 later than the average maturity date of the
20 bonds to be refunded by such issue,

21 “(B) the amount of the refunding bond
22 does not exceed the outstanding amount of the
23 refunded bond, and



1 (A) the Secretary of the Treasury, in con-
2 sultation with the Secretary of Transportation,
3 and with public notice and comment, shall de-
4 termine the average annual amount of tax-paid
5 fuel consumed per vehicle, by type of vehicle,
6 used by the propulsion engine to provide the
7 power to operate the equipment attached to the
8 highway vehicle, and

9 (B) the Secretary of the Treasury shall re-
10 view the technical and administrative feasibility
11 of exempting such nonpropulsive use of highway
12 fuels from the highway motor fuels excise taxes,
13 and, if such exemptions are technically and ad-
14 ministratively feasible, shall propose options for
15 implementing such exemptions for—

16 (i) mobile machinery (as defined in
17 section 4053(8) of the Internal Revenue
18 Code of 1986) whose nonpropulsive fuel
19 use exceeds 50 percent, and

20 (ii) any highway vehicle which con-
21 sumes fuel for both transportation- and
22 non-transportation-related equipment,
23 using a single motor,

24 (2) in the case where non-transportation equip-
25 ment is run by a separate motor—



1 (A) the Secretary of the Treasury shall de-
2 termine the annual average amount of fuel ex-
3 empted from tax in the use of such equipment
4 by equipment type, and

5 (B) the Secretary of the Treasury shall re-
6 view issues of administration and compliance
7 related to the present-law exemption provided
8 for such fuel use, and

9 (3) the Secretary of the Treasury shall—

10 (A) estimate the amount of taxable fuel
11 consumed by trucks and the emissions of var-
12 ious pollutants due to the long-term idling of
13 diesel engines, and

14 (B) determine the cost of reducing such
15 long-term idling through the use of plug-ins at
16 truck stops, auxiliary power units, or other
17 technologies.

18 (b) REPORT.—Not later than January 1, 2007, the
19 Secretary of the Treasury shall report the findings of the
20 study required under subsection (a) to the Committee on
21 Finance of the Senate and the Committee on Ways and
22 Means of the House of Representatives.

23 **SEC. 1145. DIESEL FUEL TAX EVASION REPORT.**

24 Not later than 360 days after the date of the enact-
25 ment of this Act, the Commissioner of the Internal Rev-



1 enue shall report to the Committees on Finance and Envi-
2 ronment and Public Works of the Senate and the Commit-
3 tees on Ways and Means and Transportation and Infra-
4 structure of the House of Representatives on—

5 (1) the availability of new technologies, includ-
6 ing forensic or chemical molecular markers, that can
7 be employed to enhance collections of the excise tax
8 on diesel fuel and the plans of the Internal Revenue
9 Service to employ such technologies,

10 (2) the design of a test to place forensic or
11 chemical molecular markers in any excluded liquid
12 (as defined in section 48.4081–1(b) of title 26, Code
13 of Federal Regulations),

14 (3) the design of a test, in consultation with the
15 Department of Defense, to place forensic or chemical
16 molecular markers in all nonstrategic bulk fuel deliv-
17 eries of diesel fuel to the military, and

18 (4) the design of a test to place forensic or
19 chemical molecular markers in all diesel fuel bound
20 for export utilizing the Gulf of Mexico.

21 **SEC. 1146. TAX TREATMENT OF STATE OWNERSHIP OF**
22 **RAILROAD REAL ESTATE INVESTMENT**
23 **TRUST.**

24 (a) IN GENERAL.—If a State owns all of the out-
25 standing stock of a corporation—



1 (1) which is a real estate investment trust on
2 the date of the enactment of this Act,

3 (2) which is a non-operating class III railroad,
4 and

5 (3) substantially all of the activities of which
6 consist of the ownership, leasing, and operation by
7 such corporation of facilities, equipment, and other
8 property used by the corporation or other persons
9 for railroad transportation and for economic develop-
10 ment purposes for the benefit of the State and its
11 citizens, then, to the extent such activities are of a
12 type which are an essential governmental function
13 within the meaning of section 115 of the Internal
14 Revenue Code of 1986, income derived from such ac-
15 tivities by the corporation shall be treated as accru-
16 ing to the State for purposes of section 115 of such
17 Code.

18 (b) GAIN OR LOSS NOT RECOGNIZED ON CONVER-
19 SION.—Notwithstanding section 337(d) of the Internal
20 Revenue Code of 1986—

21 (1) no gain or loss shall be recognized under
22 section 336 or 337 of such Code, and

23 (2) no change in basis of the property of such
24 corporation shall occur, because of any change of



1 status of a corporation to a tax-exempt entity by
2 reason of the application of subsection (a).

3 (c) TAX-EXEMPT FINANCING.—

4 (1) IN GENERAL.—Any obligation issued by a
5 corporation described in subsection (a) at least 95
6 percent of the net proceeds (as defined in section
7 150(a) of the Internal Revenue Code of 1986) of
8 which are to be used to provide for the acquisition,
9 construction, or improvement of railroad transpor-
10 tation infrastructure (including railroad terminal fa-
11 cilities)—

12 (A) shall be treated as a State or local
13 bond (within the meaning of section 103(c) of
14 such Code), and

15 (B) shall not be treated as a private activ-
16 ity bond (within the meaning of section
17 103(b)(1) of such Code) solely by reason of the
18 ownership or use of such railroad transpor-
19 tation infrastructure by the corporation.

20 (2) NO INFERENCE.—Except as provided in
21 paragraph (1), nothing in this subsection shall be
22 construed to affect the treatment of the private use
23 of proceeds or property financed with obligations
24 issued by the corporation for purposes of section 103



1 of the Internal Revenue Code of 1986 and part IV
2 of subchapter B of such Code.

3 (d) DEFINITIONS.—For purposes of this section:

4 (1) REAL ESTATE INVESTMENT TRUST.—The
5 term “real estate investment trust” has the meaning
6 given such term by section 856(a) of the Internal
7 Revenue Code of 1986.

8 (2) NON-OPERATING CLASS III RAILROAD.—The
9 term “non-operating class III railroad” has the
10 meaning given such term by part A of subtitle IV of
11 title 49, United States Code (49 U.S.C. 10101 et
12 seq.), and the regulations thereunder.

13 (3) STATE.—The term “State” includes—

14 (A) the District of Columbia and any pos-
15 session of the United States, and

16 (B) any authority, agency, or public cor-
17 poration of a State.

18 (e) APPLICABILITY.—

19 (1) IN GENERAL.—Except as provided in para-
20 graph (2), this section shall apply on and after the
21 date on which a State becomes the owner of all of
22 the outstanding stock of a corporation described in
23 subsection (a) through action of such corporation’s
24 board of directors.



1 (2) EXCEPTION.—This section shall not apply
2 to any State which—

3 (A) becomes the owner of all of the voting
4 stock of a corporation described in subsection
5 (a) after December 31, 2003, or

6 (B) becomes the owner of all of the out-
7 standing stock of a corporation described in
8 subsection (a) after December 31, 2006.

9 **SEC. 1147. LIMITATION ON TRANSFERS TO THE LEAKING**
10 **UNDERGROUND STORAGE TANK TRUST**
11 **FUND.**

12 (a) IN GENERAL.—Section 9508 is amended by add-
13 ing at the end the following new subsection:

14 “(e) LIMITATION ON TRANSFERS TO LEAKING UN-
15 DERGROUND STORAGE TANK TRUST FUND.—

16 “(1) IN GENERAL.—Except as provided in para-
17 graph (2), no amount may be appropriated to the
18 Leaking Underground Storage Tank Trust Fund on
19 and after the date of any expenditure from the
20 Leaking Underground Storage Tank Trust Fund
21 which is not permitted by this section. The deter-
22 mination of whether an expenditure is so permitted
23 shall be made without regard to—



1 “(A) any provision of law which is not con-
2 tained or referenced in this title or in a revenue
3 Act, and

4 “(B) whether such provision of law is a
5 subsequently enacted provision or directly or in-
6 directly seeks to waive the application of this
7 paragraph.

8 “(2) EXCEPTION FOR PRIOR OBLIGATIONS.—
9 Paragraph (1) shall not apply to any expenditure to
10 liquidate any contract entered into (or for any
11 amount otherwise obligated) before October 1, 2011,
12 in accordance with the provisions of this section.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall take effect on the date of the enactment
15 of this Act.

16 **Subtitle D—Highway-Related** 17 **Technical Corrections**

18 **SEC. 1151. HIGHWAY-RELATED TECHNICAL CORRECTIONS.**

19 (a) AMENDMENTS RELATED TO SECTION 301 OF
20 THE AMERICAN JOBS CREATION ACT OF 2004.—Section
21 6427 is amended—

22 (1) by striking subsection (f), and

23 (2) by striking subsection (o) and redesignating
24 subsection (p) as subsection (o).



1 (b) AMENDMENTS RELATED TO SECTION 853 OF
2 THE AMERICAN JOBS CREATION ACT OF 2004.—

3 (1) Subparagraph (C) of section 4081(a)(2) is
4 amended by striking “for use in commercial avia-
5 tion” and inserting “for use in commercial aviation
6 by a person registered for such use under section
7 4101”.

8 (2) So much of paragraph (2) of section
9 4081(d) as precedes subparagraph (A) is amended
10 to read as follows:

11 “(2) AVIATION FUELS.—The rates of tax speci-
12 fied in clauses (ii) and (iv) of subsection (a)(2)(A)
13 shall be 4.3 cents per gallon—”.

14 (3) Section 6421(f)(2) is amended—

15 (A) by striking “noncommercial aviation
16 (as defined in section 4041(c)(2))” in subpara-
17 graph (A) and inserting “aviation which is not
18 commercial aviation (as defined in section
19 4083(b))”, and

20 (B) by striking “aviation which is not non-
21 commercial aviation” in subparagraph (B) and
22 inserting “commercial aviation”.

23 (c) AMENDMENT RELATED TO SECTION 9005 OF
24 THE TRANSPORTATION EQUITY ACT FOR THE 21ST CEN-
25 TURY.—The last sentence of paragraph (2) of section



1 9504(b) is amended by striking “subparagraph (B)”, and
2 inserting “subparagraph (C)”.

3 (d) AMENDMENT RELATED TO SECTION 1306 OF
4 THE ENERGY POLICY ACT OF 2005.—

5 (1) Subsection (b) of section 1306 of the En-
6 ergy Tax Incentives Act of 2005 is amended by
7 striking “Transportation Equity Act: A Legacy for
8 Users” and inserting “Safe, Accountable, Flexible,
9 Efficient Transportation Equity Act: A Legacy for
10 Users”.

11 (2) If the Energy Policy Act of 2005 is enacted
12 before the date of the enactment of this Act, for
13 purposes of executing any amendments made by the
14 Energy Policy Act of 2005 to section 38(b) of the
15 Internal Revenue Code of 1986, the amendments
16 made by section 1126(b) of this Act shall be treated
17 as having been executed before such amendments
18 made by the Energy Policy Act of 2005.

19 (e) CLERICAL AMENDMENTS.—

20 (1) Subparagraph (A) of section 9504(b)(2) is
21 amended by striking “the Act entitled ‘An Act to
22 provide that the United States shall aid the States
23 in fish restoration and management projects, and for
24 other purposes’, approved August 9, 1950” and in-



1 serting “the Dingell-Johnson Sport Fish Restoration
2 Act”.

3 (2) Sections 6426(d)(2)(F) and
4 4041(a)(2)(B)(ii) are both amended by striking
5 “section 29(e)(3)” and inserting “section
6 45K(e)(3)”.

7 (f) EFFECTIVE DATES.—

8 (1) AMERICAN JOBS CREATION ACT OF 2004.—
9 The amendments made by subsections (a) and (b)
10 shall take effect as if included in the provisions of
11 the American Jobs Creation Act of 2004 to which
12 they relate.

13 (2) TRANSPORTATION EQUITY ACT FOR THE
14 21ST CENTURY.—The amendment made by sub-
15 section (c) shall take effect as if included in the pro-
16 vision of the Transportation Equity Act for the 21st
17 Century to which it relates.

18 (3) ENERGY POLICY ACT OF 2005.—The amend-
19 ments made by subsections (d)(1) and (e)(2) shall
20 take effect as if included in the provision of the En-
21 ergy Tax Incentives Act of 2005 to which they re-
22 late.



1 **Subtitle E—Preventing Fuel Fraud**

2 **SEC. 1161. TREATMENT OF KEROSENE FOR USE IN AVIA-** 3 **TION.**

4 (a) ALL KEROSENE TAXED AT HIGHEST RATE.—

5 (1) IN GENERAL.—Section 4081(a)(2)(A) (re-
6 lating to rates of tax) is amended by adding “and”
7 at the end of clause (ii), by striking “, and” at the
8 end of clause (iii) and inserting a period, and by
9 striking clause (iv).

10 (2) EXCEPTION FOR USE IN AVIATION.—Sub-
11 paragraph (C) of section 4081(a)(2) is amended to
12 read as follows:

13 “(C) TAXES IMPOSED ON FUEL USED IN
14 AVIATION.—In the case of kerosene which is re-
15 moved from any refinery or terminal directly
16 into the fuel tank of an aircraft for use in avia-
17 tion, the rate of tax under subparagraph
18 (A)(iii) shall be—

19 “(i) in the case of use for commercial
20 aviation by a person registered for such
21 use under section 4101, 4.3 cents per gal-
22 lon, and

23 “(ii) in the case of use for aviation
24 not described in clause (i), 21.8 cents per
25 gallon.”.



1 (3) APPLICABLE RATE IN CASE OF CERTAIN RE-
2 FUELER TRUCKS, TANKERS, AND TANK WAGONS.—
3 Section 4081(a)(3) (relating to certain refueler
4 trucks, tankers, and tank wagons treated as termi-
5 nals) is amended—

6 (A) by striking “a secured area of” in sub-
7 paragraph (A)(i), and

8 (B) by adding at the end the following new
9 subparagraph:

10 “(D) APPLICABLE RATE.—For purposes of
11 paragraph (2)(C), in the case of any kerosene
12 treated as removed from a terminal by reason
13 of this paragraph—

14 “(i) the rate of tax specified in para-
15 graph (2)(C)(i) in the case of use described
16 in such paragraph shall apply if such ter-
17 minal is located within a secured area of
18 an airport, and

19 “(ii) the rate of tax specified in para-
20 graph (2)(C)(ii) shall apply in all other
21 cases.”.

22 (4) CONFORMING AMENDMENTS.—

23 (A) Sections 4081(a)(3)(A) and 4082(b)
24 are amended by striking “aviation-grade” each
25 place it appears.



1 (B) Section 4081(a)(4) is amended by
2 striking “paragraph (2)(C)” and inserting
3 “paragraph (2)(C)(i)”.

4 (C) The heading for paragraph (4) of sec-
5 tion 4081(a) is amended by striking “AVIATION-
6 GRADE”.

7 (D) Section 4081(d)(2) is amended by
8 striking so much as precedes subparagraph (A)
9 and inserting the following:

10 “(2) AVIATION FUELS.—The rates of tax speci-
11 fied in subsections (a)(2)(A)(ii) and (a)(2)(C)(ii)
12 shall be 4.3 cents per gallon—”.

13 (E) Subsection (e) of section 4082 is
14 amended—

15 (i) by striking “aviation-grade”,

16 (ii) by striking “section
17 4081(a)(2)(A)(iv)” and inserting “section
18 4081(a)(2)(A)(iii)”,

19 (iii) by adding at the end the fol-
20 lowing new sentence: “For purposes of this
21 subsection, any removal described in sec-
22 tion 4081(a)(3)(A) shall be treated as a re-
23 moval from a terminal but only if such ter-
24 minal is located within a secure area of an
25 airport.”, and



1 (iv) by striking “AVIATION-GRADE
2 KEROSENE” in the heading thereof and in-
3 sserting “KEROSENE REMOVED INTO AN
4 AIRCRAFT”.

5 (b) REDUCED RATE FOR USE OF CERTAIN LIQUIDS
6 IN AVIATION.—

7 (1) IN GENERAL.—Subsection (c) of section
8 4041 (relating to imposition of tax) is amended—

9 (A) by striking “aviation-grade kerosene”
10 in paragraph (1) and inserting “any liquid for
11 use as a fuel other than aviation gasoline”,

12 (B) by striking “aviation-grade kerosene”
13 in paragraph (2) and inserting “liquid for use
14 as a fuel other than aviation gasoline”,

15 (C) by striking paragraph (3) and insert-
16 ing the following new paragraph:

17 “(3) RATE OF TAX.—The rate of tax imposed
18 by this subsection shall be 21.8 cents per gallon (4.3
19 cents per gallon with respect to any sale or use for
20 commercial aviation).”, and

21 (D) by striking “AVIATION-GRADE KER-
22 OSENE” in the heading thereof and inserting
23 “CERTAIN LIQUIDS USED AS A FUEL IN AVIA-
24 TION”.

25 (2) PARTIAL REFUND OF FULL RATE.—



1 (A) IN GENERAL.—Paragraph (2) of sec-
2 tion 6427(l) (relating to nontaxable uses of die-
3 sel fuel, kerosene and aviation fuel) is amended
4 to read as follows:

5 “(2) NONTAXABLE USE.—For purposes of this
6 subsection, the term ‘nontaxable use’ means any use
7 which is exempt from the tax imposed by section
8 4041(a)(1) other than by reason of a prior imposi-
9 tion of tax.”.

10 (B) REFUNDS FOR NONCOMMERCIAL AVIA-
11 TION.—Section 6427(l) (relating to nontaxable
12 uses of diesel fuel, kerosene and aviation fuel)
13 is amended by redesignating paragraph (5) as
14 paragraph (6) and by inserting after paragraph
15 (4) the following new paragraph:

16 “(5) REFUNDS FOR KEROSENE USED IN NON-
17 COMMERCIAL AVIATION.—

18 “(A) IN GENERAL.—In the case of ker-
19 osene used in aviation not described in para-
20 graph (4)(A) (other than any use which is ex-
21 empt from the tax imposed by section 4041(c)
22 other than by reason of a prior imposition of
23 tax), paragraph (1) shall not apply to so much
24 of the tax imposed by section 4081 as is attrib-
25 utable to—



1 “(i) the Leaking Underground Stor-
2 age Tank Trust Fund financing rate im-
3 posed by such section, and

4 “(ii) so much of the rate of tax speci-
5 fied in section 4081(a)(2)(A)(iii) as does
6 not exceed the rate specified in section
7 4081(a)(2)(C)(ii).

8 “(B) PAYMENT TO ULTIMATE, REG-
9 ISTERED VENDOR.—The amount which would
10 be paid under paragraph (1) with respect to
11 any kerosene shall be paid only to the ultimate
12 vendor of such kerosene. A payment shall be
13 made to such vendor if such vendor—

14 “(i) is registered under section 4101,
15 and

16 “(ii) meets the requirements of sub-
17 paragraph (A), (B), or (D) of section
18 6416(a)(1).”.

19 (3) CONFORMING AMENDMENTS.—

20 (A) Section 4041(a)(1)(B) is amended by
21 striking the last sentence.

22 (B) The heading for subsection (l) of sec-
23 tion 6427 is amended by striking “, Kerosene
24 and Aviation Fuel” and inserting “and Ker-
25 osene”.



1 (C) Section 4082(d)(2)(B) is amended by
2 striking “section 6427(l)(5)(B)” and inserting
3 “section 6427(l)(6)(B)”.

4 (D) Section 6427(i)(4)(A) is amended—

5 (i) by striking “paragraph (4)(B) or
6 (5)” both places it appears and inserting
7 “paragraph (4)(B), (5), or (6)”, and

8 (ii) by striking “subsection (b)(4) and
9 subsection (l)(5)” in the last sentence and
10 inserting “subsections (b)(4), (l)(5), and
11 (l)(6)”.

12 (E) Paragraph (4) of section 6427(l) is
13 amended—

14 (i) by striking “aviation-grade” in
15 subparagraph (A),

16 (ii) by striking “section
17 4081(a)(2)(A)(iv)” and inserting “section
18 4081(a)(2)(iii)”,

19 (iii) by striking “aviation-grade ker-
20 osene” in subparagraph (B) and inserting
21 “kerosene used in commercial aviation as
22 described in subparagraph (A)”, and

23 (iv) by striking “AVIATION-GRADE
24 KEROSENE” in the heading thereof and in-



1 serting “KEROSENE USED IN COMMERCIAL
2 AVIATION”.

3 (F) Section 6427(l)(6)(B), as redesignated
4 by paragraph (2)(B), is amended by striking
5 “aviation-grade kerosene” and inserting “ker-
6 osene used in aviation”.

7 (c) TRANSFERS FROM HIGHWAY TRUST FUND OF
8 TAXES ON FUELS USED IN AVIATION TO AIRPORT AND
9 AIRWAY TRUST FUND.—

10 (1) IN GENERAL.—Section 9503(c) (relating to
11 expenditures from Highway Trust Fund) is amended
12 by adding at the end the following new paragraph:

13 “(7) TRANSFERS FROM THE TRUST FUND FOR
14 CERTAIN AVIATION FUEL TAXES.—The Secretary
15 shall pay at least monthly from the Highway Trust
16 Fund into the Airport and Airway Trust Fund
17 amounts (as determined by the Secretary) equivalent
18 to the taxes received on or after October 1, 2005,
19 and before October 1, 2011, under section 4081 with
20 respect to so much of the rate of tax as does not
21 exceed—

22 “(A) 4.3 cents per gallon of kerosene with
23 respect to which a payment has been made by
24 the Secretary under section 6427(l)(4), and



1 “(B) 21.8 cents per gallon of kerosene
2 with respect to which a payment has been made
3 by the Secretary under section 6427(l)(5).

4 Transfers under the preceding sentence shall be
5 made on the basis of estimates by the Secretary, and
6 proper adjustments shall be made in the amounts
7 subsequently transferred to the extent prior esti-
8 mates were in excess of or less than the amounts re-
9 quired to be transferred. Any amount allowed as a
10 credit under section 34 by reason of paragraph (4)
11 or (5) of section 6427(l) shall be treated for pur-
12 poses of subparagraphs (A) and (B) as a payment
13 made by the Secretary under such paragraph.”.

14 (2) CONFORMING AMENDMENTS.—

15 (A) Section 9502(a) is amended by strik-
16 ing “appropriated or credited to the Airport
17 and Airway Trust Fund as provided in this sec-
18 tion or section 9602(b)” and inserting “appro-
19 priated, credited, or paid into the Airport and
20 Airway Trust Fund as provided in this section,
21 section 9503(c)(7), or section 9602(b)”.

22 (B) Section 9502(b)(1) is amended—

23 (i) by striking “subsections (c) and
24 (e) of section 4041” in subparagraph (A)
25 and inserting “section 4041(c)”, and



1 (ii) by striking “and aviation-grade
2 kerosene” in subparagraph (C) and insert-
3 ing “and kerosene to the extent attrib-
4 utable to the rate specified in section
5 4081(a)(2)(C)”.

6 (C) Section 9503(b) is amended by strik-
7 ing paragraph (3).

8 (d) CERTAIN REFUNDS NOT TRANSFERRED FROM
9 AIRPORT AND AIRWAY TRUST FUND.—

10 (1) Section 9502(d)(2) (relating to transfers
11 from Airport and Airway Trust Fund on account of
12 certain refunds) is amended by inserting “(other
13 than subsections (1)(4) and (1)(5) thereof)” after “or
14 6427 (relating to fuels not used for taxable pur-
15 poses)”.

16 (2) The text of section 9502(d)(3) (relating to
17 transfers from Airport and Airway Trust Fund on
18 account of certain section 34 credits) is amended by
19 inserting “(other than payments made by reason of
20 paragraph (4) or (5) of section 6427(1))” after “sec-
21 tion 34”.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to fuels or liquids removed, en-
24 tered, or sold after September 30, 2005.



1 **SEC. 1162. REPEAL OF ULTIMATE VENDOR REFUND CLAIMS**
2 **WITH RESPECT TO FARMING.**

3 (a) IN GENERAL.—Subparagraph (A) of section
4 6427(l)(6) (relating to registered vendors to administer
5 claims for refund of diesel fuel or kerosene sold to farmers
6 and State and local governments), as redesignated by sec-
7 tion 1161, is amended to read as follows:

8 “(A) IN GENERAL.—Paragraph (1) shall
9 not apply to diesel fuel or kerosene used by a
10 State or local government.”.

11 (b) CONFORMING AMENDMENT.—The heading of
12 paragraph (6) of section 6427(l), as so redesignated, is
13 amended by striking “FARMERS AND”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to sales after September 30, 2005.

16 **SEC. 1163. REFUNDS OF EXCISE TAXES ON EXEMPT SALES**
17 **OF FUEL BY CREDIT CARD.**

18 (a) REGISTRATION OF PERSON EXTENDING CREDIT
19 ON CERTAIN EXEMPT SALES OF FUEL.—Section 4101(a)
20 (relating to registration) is amended by adding at the end
21 the following new paragraph:

22 “(4) REGISTRATION OF PERSONS EXTENDING
23 CREDIT ON CERTAIN EXEMPT SALES OF FUEL.—The
24 Secretary shall require registration by any person
25 which—



1 “(A) extends credit by credit card to any
2 ultimate purchaser described in subparagraph
3 (C) or (D) of section 6416(b)(2) for the pur-
4 chase of taxable fuel upon which tax has been
5 imposed under section 4041 or 4081, and

6 “(B) does not collect the amount of such
7 tax from such ultimate purchaser.”.

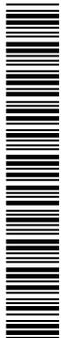
8 (b) REFUNDS OF TAX ON GASOLINE.—

9 (1) IN GENERAL.—Paragraph (4) of section
10 6416(a) (relating to condition to allowance) is
11 amended—

12 (A) by inserting “except as provided in
13 subparagraph (B),” after “For purposes of this
14 subsection,” in subparagraph (A),

15 (B) by redesignating subparagraph (B) as
16 subparagraph (C) and by inserting after sub-
17 paragraph (A) the following new subparagraph:

18 “(B) CREDIT CARD ISSUER.—For purposes
19 of this subsection, if the purchase of gasoline
20 described in subparagraph (A) (determined
21 without regard to the registration status of the
22 ultimate vendor) is made by means of a credit
23 card issued to the ultimate purchaser, para-
24 graph (1) shall not apply and the person ex-
25 tending the credit to the ultimate purchaser



1 shall be treated as the person (and the only
2 person) who paid the tax, but only if such
3 person—

4 “(i) is registered under section 4101,
5 and

6 “(ii) has established, under regula-
7 tions prescribed by the Secretary, that
8 such person—

9 “(I) has not collected the amount
10 of the tax from the person who pur-
11 chased such article, or

12 “(II) has obtained the written
13 consent from the ultimate purchaser
14 to the allowance of the credit or re-
15 fund, and

16 “(iii) has so established that such
17 person—

18 “(I) has repaid or agreed to
19 repay the amount of the tax to the ul-
20 timate vendor,

21 “(II) has obtained the written
22 consent of the ultimate vendor to the
23 allowance of the credit or refund, or

24 “(III) has otherwise made ar-
25 rangements which directly or indi-



1 rectly provides the ultimate vendor
2 with reimbursement of such tax.

3 If clause (i), (ii), or (iii) is not met by such per-
4 son extending the credit to the ultimate pur-
5 chaser, then such person shall collect an
6 amount equal to the tax from the ultimate pur-
7 chaser and only such ultimate purchaser may
8 claim such credit or payment.”,

9 (C) by striking “subparagraph (A)” in
10 subparagraph (C), as redesignated by para-
11 graph (2), and inserting “subparagraph (A) or
12 (B)”,

13 (D) by inserting “or credit card issuer”
14 after “vendor” in subparagraph (C), as so re-
15 designated, and

16 (E) by inserting “OR CREDIT CARD
17 ISSUER” after “VENDOR” in the heading there-
18 of.

19 (2) CONFORMING AMENDMENT.—Section
20 6416(b)(2) is amended by adding at the end the fol-
21 lowing new sentence: “Subparagraphs (C) and (D)
22 shall not apply in the case of any tax imposed on
23 gasoline under section 4081 if the requirements of
24 subsection (a)(4) are not met.”.



1 (c) DIESEL FUEL OR KEROSENE.—Paragraph (6) of
2 section 6427(l) (relating to nontaxable uses of diesel fuel
3 and kerosene), as redesignated by section 1161, is
4 amended—

5 (1) by striking “The amount” in subparagraph
6 (C) and inserting “Except as provided in subpara-
7 graph (D), the amount”, and

8 (2) by adding at the end the following new sub-
9 paragraph:

10 “(D) CREDIT CARD ISSUER.—For purposes
11 of this paragraph, if the purchase of any fuel
12 described in subparagraph (A) (determined
13 without regard to the registration status of the
14 ultimate vendor) is made by means of a credit
15 card issued to the ultimate purchaser, the Sec-
16 retary shall pay to the person extending the
17 credit to the ultimate purchaser the amount
18 which would have been paid under paragraph
19 (1) (but for subparagraph (A)), but only if such
20 person meets the requirements of clauses (i),
21 (ii), and (iii) of section 6416(a)(4)(B). If such
22 clause (i), (ii), or (iii) is not met by such person
23 extending the credit to the ultimate purchaser,
24 then such person shall collect an amount equal
25 to the tax from the ultimate purchaser and only



1 such ultimate purchaser may claim such
2 amount.”.

3 (d) CONFORMING PENALTY AMENDMENTS.—

4 (1) Section 6206 (relating to special rules appli-
5 cable to excessive claims under sections 6420, 6421,
6 and 6427) is amended—

7 (A) by striking “Any portion” in the first
8 sentence and inserting “Any portion of a refund
9 made under section 6416(a)(4) and any por-
10 tion”,

11 (B) by striking “payments under sections
12 6420” in the first sentence and inserting “re-
13 funds under section 6416(a)(4) and payments
14 under sections 6420”,

15 (C) by striking “section 6420” in the sec-
16 ond sentence and inserting “section 6416(a)(4),
17 6420”, and

18 (D) by striking “**SECTIONS 6420, 6421,**
19 **AND 6427**” in the heading thereof and inserting
20 “**CERTAIN SECTIONS**”.

21 (2) Section 6675(a) is amended by inserting
22 “section 6416(a)(4) (relating to certain sales of gas-
23 oline),” after “made under”.

24 (3) Section 6675(b)(1) is amended by inserting
25 “6416(a)(4),” after “under section”.



1 (4) The item relating to section 6206 in the
2 table of sections for subchapter A of chapter 63 is
3 amended by striking “sections 6420, 6421, and
4 6427” and inserting “certain sections”.

5 (e) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to sales after December 31, 2005.

7 **SEC. 1164. REREGISTRATION IN EVENT OF CHANGE IN**
8 **OWNERSHIP.**

9 (a) IN GENERAL.—Section 4101(a) (relating to reg-
10 istration) is amended by adding at the end the following
11 new paragraph:

12 “(4) REREGISTRATION IN EVENT OF CHANGE
13 IN OWNERSHIP.—Under regulations prescribed by
14 the Secretary, a person (other than a corporation
15 the stock of which is regularly traded on an estab-
16 lished securities market) shall be required to rereg-
17 ister under this section if after a transaction (or se-
18 ries of related transactions) more than 50 percent of
19 ownership interests in, or assets of, such person are
20 held by persons other than persons (or persons re-
21 lated thereto) who held more than 50 percent of
22 such interests or assets before the transaction (or
23 series of related transactions).”.

24 (b) CONFORMING AMENDMENTS.—



1 (1) CIVIL PENALTY.—Section 6719 (relating to
2 failure to register) is amended—

3 (A) by inserting “or reregister” after “reg-
4 ister” each place it appears,

5 (B) by inserting “OR REREGISTER” after
6 “REGISTER” in the heading for subsection (a),
7 and

8 (C) by inserting “**OR REREGISTER**” after
9 “**REGISTER**” in the heading thereof.

10 (2) CRIMINAL PENALTY.—Section 7232 (relat-
11 ing to failure to register under section 4101, false
12 representations of registration status, etc.) is
13 amended—

14 (A) by inserting “or reregister” after “reg-
15 ister”,

16 (B) by inserting “or reregistration” after
17 “registration”, and

18 (C) by inserting “**OR REREGISTER**” after
19 “**REGISTER**” in the heading thereof.

20 (3) ADDITIONAL CIVIL PENALTY.—Section
21 7272 (relating to penalty for failure to register) is
22 amended—

23 (A) by inserting “or reregister” after “fail-
24 ure to register” in subsection (a),



1 (B) by inserting “**OR REREGISTER**” after
2 “**REGISTER**” in the heading thereof.

3 (4) CLERICAL AMENDMENTS.—The item relat-
4 ing to section 6719 in the table of sections for part
5 I of subchapter B of chapter 68, the item relating
6 to section 7232 in the table of sections for part II
7 of subchapter A of chapter 75, and the item relating
8 to section 7272 in the table of sections for sub-
9 chapter B of chapter 75 are each amended by insert-
10 ing “or reregister” after “register”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to actions, or failures to act, after
13 the date of the enactment of this Act.

14 **SEC. 1165. RECONCILIATION OF ON-LOADED CARGO TO EN-**
15 **TERED CARGO.**

16 (a) IN GENERAL.—Subsection (a) of section 343 of
17 the Trade Act of 2002 is amended by inserting at the end
18 the following new paragraph:

19 “(4) TRANSMISSION OF DATA.—Pursuant to
20 paragraph (2), not later than 1 year after the date
21 of enactment of this paragraph, the Secretary of
22 Homeland Security, after consultation with the Sec-
23 retary of the Treasury, shall establish an electronic
24 data interchange system through which the United
25 States Customs and Border Protection shall trans-



1 mit to the Internal Revenue Service information per-
2 taining to cargoes of any taxable fuel (as defined in
3 section 4083 of the Internal Revenue Code of 1986)
4 that the United States Customs and Border Protec-
5 tion has obtained electronically under its regulations
6 adopted in accordance with paragraph (1). For this
7 purpose, not later than 1 year after the date of en-
8 actment of this paragraph, all filers of required
9 cargo information for such taxable fuels (as so de-
10 fined) must provide such information to the United
11 States Customs and Border Protection through such
12 electronic data interchange system.”.

13 (b) **EFFECTIVE DATE.**—The amendment made by
14 this section shall take effect on the date of the enactment
15 of this Act.

16 **SEC. 1166. TREATMENT OF DEEP-DRAFT VESSELS.**

17 (a) **IN GENERAL.**—On and after the date of the en-
18 actment of this Act, the Secretary of the Treasury shall
19 require that a vessel described in section 4042(c)(1) of the
20 Internal Revenue Code of 1986 be considered a vessel for
21 purposes of the registration of the operator of such vessel
22 under section 4101 of such Code, unless such operator
23 uses such vessel exclusively for purposes of the entry of
24 taxable fuel.



1 (b) EXEMPTION FOR DOMESTIC BULK TRANSFERS
2 BY DEEP-DRAFT VESSELS.—

3 (1) IN GENERAL.—Subparagraph (B) of section
4 4081(a)(1) (relating to tax on removal, entry, or
5 sale) is amended to read as follows:

6 “(B) EXEMPTION FOR BULK TRANSFERS
7 TO REGISTERED TERMINALS OR REFINERIES.—

8 “(i) IN GENERAL.—The tax imposed
9 by this paragraph shall not apply to any
10 removal or entry of a taxable fuel trans-
11 ferred in bulk by pipeline or vessel to a ter-
12 minal or refinery if the person removing or
13 entering the taxable fuel, the operator of
14 such pipeline or vessel (except as provided
15 in clause (ii)), and the operator of such
16 terminal or refinery are registered under
17 section 4101.

18 “(ii) NONAPPLICATION OF REGISTRA-
19 TION TO VESSEL OPERATORS ENTERING BY
20 DEEP-DRAFT VESSEL.—For purposes of
21 clause (i), a vessel operator is not required
22 to be registered with respect to the entry
23 of a taxable fuel transferred in bulk by a
24 vessel described in section 4042(c)(1).”.



1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall take effect on the date of the
3 enactment of this Act.

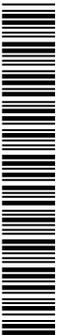
4 **SEC. 1167. PENALTY WITH RESPECT TO CERTAIN ADULTER-**
5 **ATED FUELS.**

6 (a) IN GENERAL.—Part I of subchapter B of chapter
7 68 (relating to assessable penalties) is amended by adding
8 at the end the following new section:

9 **“SEC. 6720A. PENALTY WITH RESPECT TO CERTAIN ADUL-**
10 **TERATED FUELS.**

11 “(a) IN GENERAL.—Any person who knowingly
12 transfers for resale, sells for resale, or holds out for resale
13 any liquid for use in a diesel-powered highway vehicle or
14 a diesel-powered train which does not meet applicable
15 EPA regulations (as defined in section 45H(c)(3)), shall
16 pay a penalty of \$10,000 for each such transfer, sale, or
17 holding out for resale, in addition to the tax on such liquid
18 (if any).

19 “(b) PENALTY IN THE CASE OF RETAILERS.—Any
20 person who knowingly holds out for sale (other than for
21 resale) any liquid described in subsection (a), shall pay
22 a penalty of \$10,000 for each such holding out for sale,
23 in addition to the tax on such liquid (if any).”.



1 (b) DEDICATION OF REVENUE.—Paragraph (5) of
2 section 9503(b) (relating to certain penalties) is amended
3 by inserting “6720A,” after “6719,”.

4 (c) CLERICAL AMENDMENT.—The table of sections
5 for part I of subchapter B of chapter 68 is amended by
6 adding at the end the following new item:

“Sec. 6720A. Penalty with respect to certain adulterated fuels.”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to any transfer, sale, or holding
9 out for sale or resale occurring after the date of the enact-
10 ment of this Act.

