

104TH CONGRESS  
2D SESSION

# H. R. 3345

To amend the Internal Revenue Code of 1986 to reduce the tax incentives for the production of alcohol for fuel use.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 1996

Mr. TATE (for himself, Mr. GIBBONS, Mr. BREWSTER, Mrs. SMITH of Washington, Mr. STARK, Mr. PETE GEREN of Texas, Mr. MEEHAN, Mr. ENGLISH of Pennsylvania, Mr. CASTLE, Mr. BAKER of Louisiana, Mr. FIELDS of Texas, Mr. COLEMAN, Mr. BARTON of Texas, Mr. GREENWOOD, Mr. BENTSEN, Mr. BAKER of California, Mr. FRANKS of New Jersey, Mr. FRANK of Massachusetts, Mr. WAMP, Mr. CHAPMAN, Mr. ZIMMER, Mr. THOMPSON, Mr. HOEKSTRA, Mr. LIVINGSTON, Ms. GREENE of Utah, Mr. DAVIS, Mr. MORAN, Mrs. VUCANOVICH, Mr. BLUTE, Mr. SAM JOHNSON of Texas, Mr. FRELINGHUYSEN, Mr. FOGLIETTA, Mrs. LOWEY, Mr. LOBIONDO, Mr. STENHOLM, Mr. GENE GREEN of Texas, Mr. HORN, Mr. LEWIS of California, Mr. SHUSTER, Mr. CHABOT, Mr. MONTGOMERY, Mr. CLINGER, Mr. ACKERMAN, Mr. BONILLA, Mr. ENSIGN, Mr. MOORHEAD, Mr. MCCREERY, Mr. MICA, Mr. ZELIFF, Mr. SHAYS, Mr. MILLER of Florida, Mr. SMITH of New Jersey, and Mr. HILLEARY) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to reduce the tax incentives for the production of alcohol for fuel use.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Drive Away From Eth-  
3 anol Welfare Act of 1996”.

4 **SEC. 2. REDUCTION OF INCENTIVES FOR ALCOHOL FUELS.**

5 (a) DENIAL OF CREDIT FOR ALCOHOL USED TO  
6 PRODUCE ETHER.—Subsection (b) of section 40 of the  
7 Internal Revenue Code of 1986 is amended by adding at  
8 the end the following new paragraph:

9 “(6) DENIAL OF CREDIT FOR ALCOHOL USED  
10 TO PRODUCE ETHER.—No credit shall be allowed  
11 under this section for alcohol used to produce any  
12 ether.”

13 (b) LIMITATION ON ALCOHOL ELIGIBLE FOR CREDIT  
14 FOR ALCOHOL USED AS FUEL—

15 (1) IN GENERAL.—Subparagraph (A) of section  
16 40(d)(1) of such Code (defining alcohol) is amended  
17 by striking “or” at the end of clause (i), by striking  
18 the period at the end of clause (ii) and inserting “,  
19 or”, and by adding at the end the following new  
20 clause:

21 “(iii) alcohol produced by a still (or  
22 other distilling apparatus) placed in service  
23 after December 31, 1996.”

24 (2) FUTURE CREDIT LIMITED TO AVERAGE HIS-  
25 TORICAL PRODUCTION.—Section 40 of such Code is

1 amended by adding at the end the following new  
2 subsection:

3 “(i) EXPANDED PRODUCTION INELIGIBLE FOR  
4 CREDIT.—

5 “(1) IN GENERAL.—Subsection (a) shall apply  
6 to alcohol produced after December 31, 1996, only  
7 if the alcohol is designated under this subsection by  
8 a producer who is registered under section 4101.

9 “(2) DESIGNATION BASED ON HISTORICAL PRO-  
10 Duction.—The amount of alcohol produced by a  
11 producer during any calendar year which may be  
12 designated under this subsection by any producer  
13 other than an eligible small ethanol producer is the  
14 amount equal to the average annual amount of alco-  
15 hol (as defined in subsection (d)(1)(A) without re-  
16 gard to clause (iii))—

17 “(A) which was produced by such producer  
18 (other than casual off-farm production) during  
19 the 3-year period ending on June 30, 1996, and

20 “(B) which was sold or used by such pro-  
21 ducer for any purpose described in clause (i) of  
22 subsection (b)(4)(B).

23 For purposes of the preceding sentence, a rule simi-  
24 lar to the rule of subsection (b)(4)(D) shall apply.

1           “(3) PRODUCTION FOR LESS THAN ENTIRE  
2 BASE PERIOD.—

3           “(A) IN GENERAL.—If alcohol is produced  
4 by a producer for less than the entire 3-year pe-  
5 riod referred to in paragraph (2)(A), the aver-  
6 age referred to in paragraph (2) shall be treat-  
7 ed as being equal to 50 percent of the annual  
8 productive capacity of such producer as of De-  
9 cember 31, 1996.

10           “(B) PRODUCER MAY ESTABLISH HIGHER  
11 AVERAGE PRODUCTION.—In the case of a pro-  
12 ducer who produced alcohol during at least the  
13 last 3 months of such 3-year period, subpara-  
14 graph (A) shall be applied by substituting for  
15 ‘50 percent’ the percentage established by such  
16 producer to the satisfaction of the Secretary as  
17 the percentage which such producer’s normal  
18 alcohol production is of its productive capacity.

19           “(4) ACQUISITIONS AND DISPOSITIONS.—Rules  
20 similar to the rules of subparagraphs (A) and (B) of  
21 section 41(f)(3) shall apply for purposes of this sub-  
22 section.”

23           “(3) CONFORMING AMENDMENT.—Paragraph (1)  
24 of section 40(g) of such Code is amended by striking

1 “clauses (i) and (ii)” and inserting “clauses (i), (ii),  
2 and (iii)”.

3 (c) REDUCTION OF CREDIT FOR ETHANOL BY REA-  
4 SON OF CARBON DIOXIDE BYPRODUCT BENEFIT.—Sub-  
5 section (h) of section 40 of such Code is amended—

6 (1) by striking “54 cents” each place it appears  
7 and inserting “51 cents”, and

8 (2) by striking “40 cents” each place it appears  
9 and inserting “38.25 cents”.

10 (d) CONFORMING REDUCTIONS OF OTHER INCEN-  
11 TIVES FOR ETHANOL FUEL.—

12 (1) REPEAL OF REDUCED RATE ON ETHANOL  
13 FUEL PRODUCED OTHER THAN FROM PETROLEUM  
14 OR NATURAL GAS.—Subsection (b) of section 4041  
15 of such Code is amended to read as follows:

16 “(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS  
17 USE.—

18 “(1) IN GENERAL.—No tax shall be imposed by  
19 subsection (a) or (d)(1) on liquids sold for use or  
20 used in an off-highway business use.

21 “(2) TAX WHERE OTHER USE.—If a liquid on  
22 which no tax was imposed by reason of paragraph  
23 (1) is used otherwise than in an off-highway busi-  
24 ness use, a tax shall be imposed by paragraph  
25 (1)(B), (2)(B), or (3)(A)(ii) of subsection (a)

1 (whichever is appropriate) and by the corresponding  
2 provision of subsection (d)(1) (if any).

3 “(3) OFF-HIGHWAY BUSINESS USE DEFINED.—  
4 For purposes of this subsection, the term ‘off-high-  
5 way business use’ has the meaning given to such  
6 term by section 6421(e)(2); except that such term  
7 shall not, for purposes of subsection (a)(1), include  
8 use in a diesel-powered train.”

9 (2) REPEAL OF REDUCED RATE ON ETHANOL  
10 FUEL PRODUCED FROM NATURAL GAS.—Subsection  
11 (m) of section 4041 of such Code is amended—

12 (A) by striking “or ethanol” each place it  
13 appears (including the heading of paragraph  
14 (2)), and

15 (B) by striking “, ethanol, or other alco-  
16 hol” in paragraph (2) and inserting “or other  
17 alcohol (other than ethanol)”.

18 (e) CONFORMING AMENDMENTS TO EXCISE TAXES;  
19 FUEL ALCOHOL TAXED IN SAME MANNER AS OTHER  
20 MOTOR FUELS.—

21 (1) IN GENERAL.—Paragraph (1) of section  
22 4083(a) of such Code (defining taxable fuel) is  
23 amended by striking “and” at the end of subpara-  
24 graph (A), by striking the period at the end of sub-

1 paragraph (B) and inserting “, and”, and by adding  
2 at the end the following:

3 “(C) fuel alcohol.”

4 (2) FUEL ALCOHOL.—Subsection (a) of section  
5 4083 of such Code is amended by adding at the end  
6 the following new paragraph:

7 “(4) FUEL ALCOHOL.—The term ‘fuel alcohol’  
8 means any alcohol (including ethanol and meth-  
9 anol)—

10 “(A) which is produced other than from  
11 petroleum, natural gas, or coal (including peat),  
12 and

13 “(B) which is withdrawn from the distillery  
14 where produced free of tax under chapter 51 by  
15 reason of section 5181 or so much of section  
16 5214(a)(1) as relates to fuel use.

17 Such term shall not include alcohol designated under  
18 section 40(i).”

19 (3) RATE OF TAX.—Clause (i) of section  
20 4081(a)(2)(A) of such Code is amended by inserting  
21 “or fuel alcohol” after “gasoline”.

22 (4) SPECIAL RULES FOR IMPOSITION OF TAX.—

23 (A) Paragraph (1) of section 4081(a) of  
24 such Code is amended by adding at the end the  
25 following new subparagraph:

1           “(C) SPECIAL RULES FOR FUEL ALCO-  
2           HOL.—In the case of fuel alcohol—

3                   “(i) the distillery where produced shall  
4                   be treated as a refinery, and

5                           “(ii) subparagraph (B) shall be ap-  
6                           plied by including transfers by truck or rail  
7                           in excess of such minimum quantities as  
8                           the Secretary shall prescribe.”

9           (B) Paragraph (1) of section 4081(b) of  
10           such Code is amended by inserting “(other than  
11           fuel alcohol designated under section 40(i))”  
12           after “taxable fuel”.

13           (5) REPEAL OF REDUCED RATES ON ALCOHOL  
14           FUELS.—

15                   (A) Section 4041 of such Code is amended  
16                   by striking subsection (k).

17                   (B) Section 4081 of such Code is amended  
18                   by striking subsection (c).

19                   (C) Section 4091 of such Code is amended  
20                   by striking subsection (c).

21           (6) CONFORMING AMENDMENTS.—

22                   (A) Subsection (c) of section 40 of such  
23                   Code is amended by striking all that follows  
24                   “application of” and inserting “the last sen-  
25                   tence of section 4083(a)(4)”.

1 (B) Paragraph (4) of section 40(d) of such  
2 Code is amended to read as follows:

3 “(4) VOLUME OF ALCOHOL.—For purposes of  
4 determining under subsection (a) the number of gal-  
5 lons of alcohol with respect to which a credit is al-  
6 lowable under subsection (a), the volume of alcohol  
7 shall include the volume of any denaturant (includ-  
8 ing gasoline) which is added under any formulas ap-  
9 proved by the Secretary to the extent that such de-  
10 naturants do not exceed 5 percent of the volume of  
11 such alcohol (including denaturants).”

12 (C) Paragraph (2) of section 4041(a) of  
13 such Code is amended by adding at the end the  
14 following: “No tax shall be imposed by this  
15 paragraph on the sale or use of any liquid if tax  
16 was imposed on such liquid under section 4081  
17 and the tax thereon was not credited or re-  
18 funded.”

19 (D) Section 6427 of such Code is amended  
20 by striking subsection (f).

21 (E) Subsection (i) of section 6427 of such  
22 Code is amended by striking paragraph (3).

23 (F) Paragraph (2) of section 6427(k) of  
24 such Code is amended by striking “(3)”.

1 (G)(i) Paragraph (1) of section 6427(l) of  
2 such Code is amended by striking “or” at the  
3 end of subparagraph (A), by redesignating sub-  
4 paragraph (B) as subparagraph (C), and by in-  
5 serting after subparagraph (A) the following  
6 new subparagraph:

7 “(B) any fuel alcohol (as defined in section  
8 4083) on which tax has been imposed by sec-  
9 tion 4081, or”.

10 (ii) Paragraph (2) of section 6427(l) of  
11 such Code is amended by striking “and” at the  
12 end of subparagraph (A), by redesignating sub-  
13 paragraph (B) as subparagraph (C), and by in-  
14 serting after subparagraph (A) the following  
15 new subparagraph:

16 “(B) in the case of fuel alcohol (as so de-  
17 fined), any use which is exempt from the tax  
18 imposed by section 4041(a)(2) other than by  
19 reason of a prior imposition of tax, and”.

20 (iii) The heading of subsection (l) of sec-  
21 tion 6427 of such Code is amended by inserting  
22 “, FUEL ALCOHOL,” after “DIESEL FUEL”.

23 (H) Sections 9503(b)(1)(E) and  
24 9508(b)(2) of such Code are each amended by

1 striking “and kerosene” and inserting “ker-  
2 osene, and fuel alcohol”.

3 (I) Section 9502 of such Code is amended  
4 by striking subsection (e) and by redesignating  
5 subsection (f) as subsection (e).

6 (J) Subsection (e) of section 9502 of such  
7 Code (as redesignated by subparagraph (I)) is  
8 amended by striking paragraph (2) and by re-  
9 designating paragraph (3) as paragraph (2).

10 (K) Subsection (b) of section 9503 of such  
11 Code is amended by striking paragraph (5).

12 (L) Paragraph (3) of section 9503(f) of  
13 such Code is amended to read as follows:

14 “(3) PARTIALLY EXEMPT METHANOL OR ETHA-  
15 NOL FUEL.—In the case of a rate of tax determined  
16 under section 4041(m), the Highway Trust Fund fi-  
17 nancing rate is the excess (if any) of the rate so de-  
18 termined over 4.3 cents per gallon.”

19 (f) INCREASE IN SMALL ETHANOL PRODUCER CRED-  
20 IT.—Subparagraph (A) of section 40(b)(4) of such Code  
21 is amended by striking “10 cents” and inserting “13  
22 cents”.

23 (g) EFFECTIVE DATE.—

24 (1) AMENDMENTS RELATING TO CREDIT.—The  
25 amendments made by subsections (a), (b), (c), and

1 (f) shall apply to alcohol produced after December  
2 31, 1996, in taxable years ending after such date.

3 (2) AMENDMENTS RELATING TO EXCISE  
4 TAXES.—The amendments made by subsections (d)  
5 and (e) shall take effect on January 1, 1997.

6 (3) STILLS PLACED IN SERVICE PURSUANT TO  
7 BINDING CONTRACTS.—For purposes of subsections  
8 (d)(1)(A)(iii) and (i)(3)(A) of section 40 of the In-  
9 ternal Revenue Code of 1986, as amended by this  
10 section, a still (or other distilling apparatus) shall be  
11 treated as placed in service before January 1, 1997,  
12 if such still (or other apparatus)—

13 (A) is constructed or acquired by the tax-  
14 payer pursuant to a written contract which was  
15 binding on April 30, 1996, and at all times  
16 thereafter before such construction or acquisi-  
17 tion, and

18 (B) is placed in service before January 1,  
19 1998.

20 (h) FLOOR STOCK TAXES.—

21 (1) IMPOSITION OF TAX.—In the case of fuel al-  
22 cohol which is held on January 1, 1997, by any per-  
23 son, there is hereby imposed a floor stocks tax of  
24 18.4 cents per gallon.

1           (2) LIABILITY FOR TAX AND METHOD OF PAY-  
2           MENT.—

3           (A) LIABILITY FOR TAX.—A person hold-  
4           ing fuel alcohol on January 1, 1997, to which  
5           the tax imposed by paragraph (1) applies shall  
6           be liable for such tax.

7           (B) METHOD OF PAYMENT.—The tax im-  
8           posed by paragraph (1) shall be paid in such  
9           manner as the Secretary shall prescribe.

10          (C) TIME FOR PAYMENT.—The tax im-  
11          posed by paragraph (1) shall be paid on or be-  
12          fore June 30, 1997.

13          (3) DEFINITIONS.—For purposes of this sub-  
14          section—

15          (A) FUEL ALCOHOL.—The term “fuel alco-  
16          hol” has the meaning given such term by sec-  
17          tion 4083 of the Internal Revenue Code of  
18          1986, as amended by this section.

19          (B) HELD BY A PERSON.—Fuel alcohol  
20          shall be considered as “held by a person” if  
21          title thereto has passed to such person (whether  
22          or not delivery to the person has been made).

23          (C) SECRETARY.—The term “Secretary”  
24          means the Secretary of the Treasury or his del-  
25          egate.

1           (4) EXCEPTION FOR EXEMPT USES.—The tax  
2 imposed by paragraph (1) shall not apply to fuel al-  
3 cohol held by any person exclusively for any use to  
4 the extent a credit or refund of the tax imposed by  
5 section 4081 of the Internal Revenue Code of 1986  
6 is allowable for such use.

7           (5) EXCEPTION FOR FUEL HELD IN VEHICLE  
8 TANK.—No tax shall be imposed by paragraph (1)  
9 on fuel alcohol held in the tank of a motor vehicle  
10 or motorboat.

11           (6) EXCEPTION FOR CERTAIN AMOUNTS OF  
12 FUEL.—

13           (A) IN GENERAL.—No tax shall be im-  
14 posed by paragraph (1) on fuel alcohol held on  
15 January 1, 1997, by any person if the aggre-  
16 gate amount of fuel alcohol held by such person  
17 on such date does not exceed 2,000 gallons.  
18 The preceding sentence shall apply only if such  
19 person submits to the Secretary (at the time  
20 and in the manner required by the Secretary)  
21 such information as the Secretary shall require  
22 for purposes of this paragraph.

23           (B) EXEMPT FUEL.—For purposes of sub-  
24 paragraph (A), there shall not be taken into ac-  
25 count fuel held by any person which is exempt

1 from the tax imposed by paragraph (1) by rea-  
2 son of paragraph (4) or (5).

3 (C) CONTROLLED GROUPS.—For purposes  
4 of this paragraph—

5 (i) CORPORATIONS.—

6 (I) IN GENERAL.—All persons  
7 treated as a controlled group shall be  
8 treated as 1 person.

9 (II) CONTROLLED GROUP.—The  
10 term “controlled group” has the  
11 meaning given to such term by sub-  
12 section (a) of section 1563 of such  
13 Code; except that for such purposes  
14 the phrase “more than 50 percent”  
15 shall be substituted for the phrase “at  
16 least 80 percent” each place it ap-  
17 pears in such subsection.

18 (ii) NONINCORPORATED PERSONS  
19 UNDER COMMON CONTROL.—Under regula-  
20 tions prescribed by the Secretary, prin-  
21 ciples similar to the principles of clause (i)  
22 shall apply to a group of persons under  
23 common control where 1 or more of such  
24 persons is not a corporation.

1           (7) OTHER LAWS APPLICABLE.—All provisions  
2 of law, including penalties, applicable with respect to  
3 the taxes imposed by section 4081 of such Code  
4 shall, insofar as applicable and not inconsistent with  
5 the provisions of this subsection, apply with respect  
6 to the floor stock taxes imposed by paragraph (1) to  
7 the same extent as if such taxes were imposed by  
8 such section 4081.

○