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S. 1419: Bad News for Any Energy Consumer

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Almost every bad energy policy idea circulating around Washington has found a home in the Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007 (S. 1419). The list includes:

- an expanded renewable fuels mandate that would boost both fuel and food prices;
- new home appliance standards likely to raise prices and adversely affect performance and reliability;
- new fuel economy standards for cars and trucks that would reduce vehicle safety and consumer choice while increasing sticker prices;
- price-gouging legislation that could bring back the spot shortages and gas lines of the 1970s.

As it stands, S. 1419 is so counterproductive it would need substantial improvements just to be ineffective. If this misguided measure becomes law, the American people can expect few, if any, tangible benefits, but can count on higher energy prices and other hardships.

More Renewable Fuels, More Consumer Pain.

It isn't easy coming up with something that will cost consumers dearly at the pump, at the supermarket, *and* at tax time, but the Senate is considering an increased renewable fuels mandate that will do all three.

Only Congress would take the biggest energy policy failure in recent years—the renewable fuels mandate—proclaim it a success, and then try to expand it. The 2005 energy bill required that agricultural-based renewable fuels, mostly ethanol

made from corn, be mixed into the gasoline supply. The mandate has hurt drivers because ethanol usually costs more than gasoline and it reduces fuel economy. The Government Accountability Office recently concluded that “in 2006, the average wholesale price of ethanol was 33 percent more on a per volume basis than the wholesale price of a gallon of regular unleaded gasoline and about 102 percent more expensive on a gallon of gasoline equivalent basis.”¹ The cost of ethanol relative to gasoline varies and the difference has been lower thus far in 2007 compared to 2006. But since the mandate took effect last year, it has boosted prices by between a few cents to over 50 cents per gallon. Ethanol has also failed to deliver on its promise to appreciably reduce greenhouse gas emissions and decrease dependence on oil imports.²

At the same time, the competition for corn between fuel and food uses has led to higher corn prices, in turn leading to higher prices for food items such as corn-fed meat and dairy products. Current ethanol use is much lower than that required in S. 1419, but an Iowa State University study estimates that food prices have already increased by \$47 annually per capita, or \$14 billion overall.³

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S. 1419 would increase the current mandate 5-fold, from 7.5 billion gallons by 2012 to 36 billion by 2022. Meeting this mandate will require not only more corn-based ethanol, but also other renewables, like cellulosic ethanol, that are even more expensive. The price increases for food and fuel, already significant under the current mandate, would likely skyrocket.

While Congress is proposing greater usage of renewables, it has not removed the restrictions on one potential source of them—foreign ethanol, especially the sugar-based variety from Brazil. Protectionist tariffs limit these imports, creating a guaranteed market at higher prices for domestic suppliers. S. 1419 makes no effort to lift these tariffs.

In addition, the heavy government subsidies for renewables, including a 51 cent per gallon tax credit, would rise commensurate with the mandate. They would soon reach \$10 billion and eventually exceed \$20 billion annually. In effect, taxpayers would be paying nearly \$200 per household for the privilege of higher fuel and food prices.

Appliance Efficiency Standards: Washington's Real Dirty Laundry. Energy efficiency is a worthy goal, but not when Washington steps in and tries to mandate it. The energy bill would set federal efficiency standards for a number of home appliances, such as refrigerators, clothes washers, and dishwashers. The goal is to reduce energy use by setting arbitrary limits on how much electricity these appliances are allowed to consume.

Those who think energy-efficient appliances will lower electric bills should keep in mind that these measures also impose costs, and consumers benefit only if the energy savings outweigh the costs. For one thing, mandatory improvements in efficiency usually raise the purchase price of appliances; sometimes the increase is more than enough to negate the energy savings. In addition, the forced reduction in energy use can come at the expense of reduced product performance, features, reliability, and longevity—i.e. appliances use less energy in order to meet government standards but do not work as well or last as long.

Such regulations are not new. Many home appliances have been subject to federal efficiency standards since 1988, and in some cases several rounds of progressively tighter ones. The track record for these measures is decidedly mixed. *Consumer Reports* has documented some of the technical glitches in high efficiency appliances.⁴ Most recently, *Consumer Reports* found that several new ultra-efficient clothes washers “left our stain-soaked swatches nearly as dirty as they were before washing,” and suggested that “for best results, you’ll have to spend \$900 or more.”⁵

There is no need for government regulations to advance the goal of energy efficiency. Appliance makers and appliance buyers are perfectly capable of determining for themselves the proper balance between energy efficiency and other product attributes. Rigid federal standards simply give efficiency priority over everything else, often to the det-

1. Government Accountability Office, “Biofuels: DOE Lacks A Strategic Approach to Coordinate Increasing Production With Infrastructure Development and Vehicle Needs,” June 2007, pp. 15-16.
2. See Ben Lieberman, “The Ethanol Mandate Should Not Be Expanded,” *Backgrounder* No. 2020, April 22, 2007 pp. 2-3, at www.heritage.org/Research/EnergyandEnvironment/bg2020.cfm.
3. Simla Tokgoz et al., “Emerging Biofuels: Outlook of Effects on U.S. Grain, Oilseed, and Livestock Markets,” Center for Agricultural and Rural Development, Iowa State University, May 2007, p. 25, at www.card.iastate.edu/publications/DBS/PDFFiles/07sr101.pdf.
4. See *Consumer Reports*, “Spin City: Ratings of Washing Machines and Clothes Dryers,” July 1999, pp. 30-33; *Consumer Reports*, “Way Cool: A Guide to Buying Air Conditioning,” June 1998, p. 37 (“Mid-efficiency models...may be the least expensive to own overall because they’re cheaper to buy and less likely to need repair.”); *Consumer Reports*, “Product Updates,” January 2001, p. 46 (“Maytag front loaders [a more efficient type] were among the less reliable brands and less reliable than Maytag top-loaders [a less efficient type].”); *Consumer Reports*, “Sears Recalls Some Calypso Washers,” March 2001, pp. 55.
5. www.consumerreports.org/cro/appliances/washing-machines/washers-and-dryers-6-07/overview/0607_wash_ov_1.htm.

riment of consumers. Yet, S. 1419 would give us more of the same.

A “Crash” Program to Raise Efficiency Standards for Cars. Though many of the above-mentioned problems with appliance efficiency standards are also true of motor vehicle efficiency standards, safety is the biggest problem with vehicle regulations. In theory, we can all save big at the pump by switching to more efficient vehicles, and at the same time reduce greenhouse gas emissions and oil imports. But in order to meet any tough new Corporate Average Fuel Economy (CAFE) standards, cars and trucks need to be made lighter, which also makes them less safe in collisions. According to a 2002 National Academy of Sciences study, vehicle downsizing has cost 1,300 to 2,600 lives per year.⁶ The tougher miles per gallon requirements in S. 1419 would likely add to the death toll from vehicle crashes.

Beyond the safety concerns, there is also the consumer choice issue. A variety of smaller but more fuel-efficient models are already on the market for those who want them, including hybrids. In other words, there is no market failure justifying federal intervention. Does the American car-buying public—from soccer moms to seniors—really want or need Washington stepping in and essentially forcing smaller vehicles on everyone? The new rule would also raise sticker prices perhaps by thousands of dollars, according to the auto industry.⁷

Price-Gouging Measures Would Raise the Pain at the Pump. The most direct way to attack high gasoline prices is to make them illegal, and S.1419 takes this approach by making it a crime to charge an “unconscionably excessive price.” These price-gouging provisions would kick in during declared emergencies such as the period after Hurricane Katrina.

Like most of the other measures in S. 1419, this idea has a track record for backfiring and harming

consumers. The market price for gasoline is the price where supply and demand are in balance. Trying to force the price below market levels only means that demand will outstrip supply, resulting in shortages. This is why price controls in the 1970s led to gas lines, rationing, and stations running dry.

The proposed price-gouging measures in S. 1419 would act in the same way, discouraging fuel suppliers and virtually assuring shortages. In one sense, the bill’s price-gouging measures could be worse than explicit price controls. By using the vague and subjective phrasing of “unconscionably excessive,” combined with heavy fines and prison terms of up to 5 years, S. 1419 could have a severe chilling effect on supplies.

Ironically, the Federal Trade Commission (FTC), the very agency charged with implementing the price-gouging measure, is on record stating that such legislation is a bad idea. The FTC has stated that “our examination of the federal price gouging legislation that has been introduced ... indicates that the offense of price gouging is difficult to define.”⁸ The FTC adds that “the lack of consensus on which conduct should be prohibited could yield a federal statute that would leave businesses with little guidance on how to comply and would run counter to consumer’ best interest.”⁹

The FTC concludes that a price-gouging law that does not account for market forces would be counterproductive. “Holding prices too low for too long in the face of temporary supply problems risks distorting the price signal that ultimately will ameliorate the problem,” and that such laws create a risk that “wholesalers and retailers will run out of gasoline and consumers will be worse off.”¹⁰ Congress should not ignore FTC’s concerns about price-gouging legislation.

Conclusion. S. 1419 would likely accomplish little of benefit, but would come at a great cost to

6. National Academy of Sciences, “Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards, 2002, p. 3.

7. Forbes.com, Brian Wingfield, “Cleaner Cars,” at www.forbes.com/energy/2007/06/08/gm-ford-detroit-biz-energy-cx_bw_0611energy.html.

8. Federal Trade Commission, “Investigation of Gasoline Price Manipulation and Post-Katrina Gasoline Price Increases,” Spring 2006, p. 196.

9. *Ibid.*

10. *Ibid.*, p. 197.

consumers. Missing from this bill is the real solution to high energy prices—increased supply. Washington could do much to increase access to restricted sources of domestic oil, and streamline the many regulations that have created refining bottlenecks. Unfortunately, S. 1419 does nothing to increase

supply, focusing instead on misguided, anti-market measures that will likely add to the nation's energy problems in the years ahead.

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