

114TH CONGRESS
1ST SESSION

S. _____

To repeal the medical device excise tax, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To repeal the medical device excise tax, and for other purposes.

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

3 **SECTION 1. REPEAL OF THE MEDICAL DEVICE EXCISE TAX.**

4 (a) IN GENERAL.—Chapter 32 of the Internal Rev-
5 enue Code of 1986 is amended by striking subchapter E.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Subsection (a) of section 4221 of such Code
8 is amended by striking the last sentence.

9 (2) Paragraph (2) of section 6416(b) of such
10 Code is amended by striking the last sentence.

1 (c) CLERICAL AMENDMENT.—The table of sub-
2 chapter for chapter 32 of such Code is amended by strik-
3 ing the item related to subchapter E.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to sales after December 31, 2014.

6 **SEC. 2. PROHIBITION ON USING LAST-IN, FIRST-OUT AC-**
7 **COUNTING FOR MAJOR INTEGRATED OIL**
8 **COMPANIES.**

9 (a) IN GENERAL.—Section 472 of the Internal Rev-
10 enue Code of 1986 is amended by adding at the end the
11 following new subsection:

12 “(h) MAJOR INTEGRATED OIL COMPANIES.—Not-
13 withstanding any other provision of this section, a major
14 integrated oil company (as defined in section 167(h)) may
15 not use the method provided in subsection (b) in
16 inventorying of any goods.”.

17 (b) EFFECTIVE DATE AND SPECIAL RULE.—

18 (1) IN GENERAL.—The amendment made by
19 subsection (a) shall apply to taxable years beginning
20 after December 31, 2014.

21 (2) CHANGE IN METHOD OF ACCOUNTING.—In
22 the case of any taxpayer required by the amendment
23 made by this section to change its method of ac-
24 counting for its first taxable year beginning after the
25 date of the enactment of this Act—

1 (A) such change shall be treated as initi-
2 ated by the taxpayer,

3 (B) such change shall be treated as made
4 with the consent of the Secretary of the Treas-
5 ury, and

6 (C) the net amount of the adjustments re-
7 quired to be taken into account by the taxpayer
8 under section 481 of the Internal Revenue Code
9 of 1986 shall be taken into account ratably over
10 a period (not greater than 8 taxable years) be-
11 ginning with such first taxable year.

12 **SEC. 3. ELIGIBILITY FOR NEW LEASES AND THE TRANSFER**
13 **OF LEASES.**

14 (a) DEFINITIONS.—In this section:

15 (1) COVERED LEASE.—The term “covered
16 lease” means a lease for oil or gas production in the
17 Gulf of Mexico that is—

18 (A) in existence on the date of enactment
19 of this Act;

20 (B) issued by the Department of the Inte-
21 rior under section 304 of the Outer Continental
22 Shelf Deep Water Royalty Relief Act (43
23 U.S.C. 1337 note; Public Law 104–58); and

24 (C) not subject to limitations on royalty re-
25 lief based on market price that are equal to or

1 less than the price thresholds described in
2 clauses (v) through (vii) of section 8(a)(3)(C) of
3 the Outer Continental Shelf Lands Act (43
4 U.S.C. 1337(a)(3)(C)).

5 (2) LESSEE.—The term “lessee” includes any
6 person or other entity that controls, is controlled by,
7 or is in or under common control with, a lessee.

8 (3) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior.

10 (b) ISSUANCE OF NEW LEASES.—

11 (1) IN GENERAL.—The Secretary shall not
12 issue any new lease that authorizes the production
13 of oil or natural gas under the Outer Continental
14 Shelf Lands Act (43 U.S.C. 1331 et seq.) to a per-
15 son described in paragraph (2) unless the person has
16 renegotiated each covered lease with respect to which
17 the person is a lessee to modify the payment respon-
18 sibilities of the person to require the payment of roy-
19 alties if the price of oil and natural gas is greater
20 than or equal to the price thresholds described in
21 clauses (v) through (vii) of section 8(a)(3)(C) of the
22 Outer Continental Shelf Lands Act (43 U.S.C.
23 1337(a)(3)(C)).

24 (2) PERSONS DESCRIBED.—A person referred
25 to in paragraph (1) is a person that—

1 (A) is a lessee that—

2 (i) holds a covered lease on the date
3 on which the Secretary considers the
4 issuance of the new lease; or

5 (ii) was issued a covered lease before
6 the date of enactment of this Act, but
7 transferred the covered lease to another
8 person or entity (including a subsidiary or
9 affiliate of the lessee) after the date of en-
10 actment of this Act; or

11 (B) any other person that has any direct
12 or indirect interest in, or that derives any ben-
13 efit from, a covered lease.

14 (3) MULTIPLE LESSEES.—

15 (A) IN GENERAL.—For purposes of para-
16 graph (1), if there are multiple lessees that own
17 a share of a covered lease, the Secretary may
18 implement separate agreements with any lessee
19 with a share of the covered lease that modifies
20 the payment responsibilities with respect to the
21 share of the lessee to include price thresholds
22 that are equal to or less than the price thresh-
23 olds described in clauses (v) through (vii) of
24 section 8(a)(3)(C) of the Outer Continental
25 Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

1 (B) TREATMENT OF SHARE AS COVERED
2 LEASE.—Beginning on the effective date of an
3 agreement under subparagraph (A), any share
4 subject to the agreement shall not constitute a
5 covered lease with respect to any lessees that
6 entered into the agreement.

7 (c) TRANSFERS.—A lessee or any other person who
8 has any direct or indirect interest in, or who derives a
9 benefit from, a lease shall not be eligible to obtain by sale
10 or other transfer (including through a swap, spinoff, serv-
11 icing, or other agreement) any covered lease, the economic
12 benefit of any covered lease, or any other lease for the
13 production of oil or natural gas in the Gulf of Mexico
14 under the Outer Continental Shelf Lands Act (43 U.S.C.
15 1331 et seq.), unless the lessee or other person has—

16 (1) renegotiated each covered lease with respect
17 to which the lessee or person is a lessee, to modify
18 the payment responsibilities of the lessee or person
19 to include price thresholds that are equal to or less
20 than the price thresholds described in clauses (v)
21 through (vii) of section 8(a)(3)(C) of the Outer Con-
22 tinental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C));
23 or

24 (2) entered into an agreement with the Sec-
25 retary to modify the terms of all covered leases of

1 the lessee or other person to include limitations on
2 royalty relief based on market prices that are equal
3 to or less than the price thresholds described in
4 clauses (v) through (vii) of section 8(a)(3)(C) of the
5 Outer Continental Shelf Lands Act (43 U.S.C.
6 1337(a)(3)(C)).

7 (d) PRICE THRESHOLDS FOR ROYALTY SUSPENSION
8 PROVISIONS.—

9 (1) IN GENERAL.—The Secretary shall agree to
10 a request by any lessee to amend any lease issued
11 for any Central and Western Gulf of Mexico tract
12 during the period of January 1, 1996, through No-
13 vember 28, 2000, to incorporate price thresholds ap-
14 plicable to royalty suspension provisions, that are
15 equal to or less than the price thresholds described
16 in clauses (v) through (vii) of section 8(a)(3)(C) of
17 the Outer Continental Shelf Lands Act (43 U.S.C.
18 1337(a)(3)(C)).

19 (2) REQUIREMENT.—

20 (A) IN GENERAL.—A lease amended under
21 paragraph (1) shall impose the new or revised
22 price thresholds effective January 1, 2015.

23 (B) EXISTING LEASE PROVISIONS.—Exist-
24 ing lease provisions for a lease amended under

1 paragraph (1) shall prevail through December
2 31, 2014.