

KEY VOTE *ALERT!*



Congressional & Public Affairs
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TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, strongly opposes H.R. 3534, the "Consolidated Land, Energy, and Aquatic Resources Act of 2010," in its current form. There is a bright line between increasing safety and creating a regulatory environment so unfit for business that oil and gas companies that operate in the United States will take their business elsewhere. That line is crossed repeatedly throughout H.R. 3534.

As the Chamber has stated in prior communications, Congress should resist the rush to act on legislation in the midst of the ongoing catastrophe in the Gulf; priority number one must remain permanently sealing the well and mitigating the extensive environmental damage. At this time, it is premature for Congress to legislate prescriptive solutions when the causes of the well blowout and any associated failures that led to the catastrophe have not yet been conclusively determined. The Obama Administration's National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling has not yet reported its findings, and the Chamber believes that an independent commission, similar to the one included in bipartisan legislation reported by the Senate Energy and Natural Resources Committee, would inform the legislative process by providing important data, technical analysis, and expertise.

H.R. 3534 would have serious and negative impacts on U.S. energy and economic security. The bill would make it economically nonviable to lease or explore offshore for energy resources, and the offshore energy industry would be driven largely out of U.S. waters. This outcome would increase U.S. dependence on foreign oil at higher costs in the short- and long-term, and could cripple the Gulf Coast economy by jeopardizing the 46,000 jobs that the oil and natural gas industry supports in the Gulf Coast region.

- Provisions eliminating the cap on liability provided in the Oil Pollution Act of 1990 could discourage major integrated oil companies as well as independent producers from exploring in domestic waters, as they would be unable to afford adequate insurance to cover the potential liability risk, if they could obtain insurance coverage at all. Independent producers, which hold approximately 90 percent of Gulf leases and produce approximately 30 percent of the oil and 60 percent of natural gas in the Gulf, would be particularly hard hit. Moreover, the retroactive application of the liability cap raises serious constitutional issues that may, if stricken down by the courts, force Congress to readdress the issue in the future.

- H.R. 3534 would force the CEOs of energy companies to attest personally that their systems will never, ever fail and that their companies are in strict compliance with all environmental and natural resource laws. Violations would subject CEOs to civil penalties, through citizen suits and enforcement actions, and criminal liability, which could include imprisonment. In practice, these provisions in H.R. 3534 are unworkable, and few – if any – companies could meet them. The intent of this provision appears to be political demagoguery of energy company CEOs. However, the real impact of these provisions would be severe; few domestic or foreign energy companies would be willing to explore for energy in U.S. waters.
- The Chamber strongly opposes the new energy taxes included in H.R. 3534, which Congressional Budget Office analysis indicates would ultimately cost consumers \$25 billion. Termed a “conservation tax,” it would do nothing of the sort; all monies raised by this tax would go directly to the federal treasury for Congress to appropriate. Congress should not exploit the tragedy in the Gulf as a rationale to levy excessive new energy taxes on American consumers and producers. The nascent economic recovery cannot afford additional extreme taxes on domestically produced commodities that the entire United States depends on every day. Ultimately, such new taxes could encourage American operators to move investments elsewhere. Excessive taxes levied exclusively on domestically produced energy would also increase U.S. dependence on imported energy as it did in the 1980s, further increasing the risks to U.S. energy security.
- The Environmental Diligence provisions, purportedly intended to ban BP leases, would set conditions so that virtually *no* firm could develop Gulf energy resources. H.R. 3534 would create a “doomed to fail” policy, making certain isolated violations of safety, health and environmental statutes punishable by a ban on leasing or exploration on federal land. When viewed in conjunction with the CEO liability provisions, the Environmental Diligence provisions would create, in essence, a system whereby making even one mistake could bar future access to leasing. Rather than enduring the hostile and risky relationship with federal regulators that this legislation would force upon both regulators and the regulated community, firms would likely forgo further investments in U.S. waters.
- H.R. 3534 would expand dramatically the reach and scope of federal environmental law by imposing unnecessary layers of duplicative environmental reviews, prolonging decisions on permits, and changing the criteria agencies must consider when issuing a lease or permit. Furthermore, the legislation would minimize the ability of federal regulators to consider the economic benefits of energy exploration projects. As a result, the economic growth of communities along the Gulf Coast and U.S. energy security would become much less relevant to federal regulators under H.R. 3534.
- The provisions of H.R. 3534 that would expand the scope of the Outer Continental Shelf (OCS) Lands Act and establish a massive new regulatory framework for shallow water energy exploration would essentially eliminate this industry in its current form. Shallow water drilling does not present the same risks as deepwater exploration and has operated with an exceedingly high level of environmental performance for more than 50 years.

- Even in the area of renewable energy, H.R. 3534 would pose new challenges to domestic energy security. By expanding the scope of the OCS Lands Act to offshore renewables, H.R. 3534 would subject the deployment of new offshore technologies to the same plethora of unworkable requirements for oil and gas exploration. As a result, not only would oil and gas energy production be forced from American waters, but renewables would not necessarily be erected in their place.
- The Chamber opposes the “Build America” provisions in the bill, which would require that offshore facilities be built in the United States with only limited exceptions. Similar Build and Buy American provisions have been proven to be counterproductive. Not only would such provisions harm United States’ global standing, it could inhibit the ability of companies to adopt the best technology from around the world. Moreover, the U.S. shipbuilding industry does not have the domestic capacity to build large mobile drilling rigs. Ultimately, this provision would increase costs and be very difficult to implement given the complexity of offshore platform supply chains.

The Chamber strongly opposes H.R. 3534 in its current form because of its negative impact on energy and economic security. The Chamber urges Congress to take the time necessary to understand the causes of the Gulf spill before proceeding with legislation to purportedly “fix” the problem. **The Chamber may include votes on, or in relation to, this issue in our annual How They Voted scorecard.**

Sincerely,



R. Bruce Josten