

HOS H.R. 11450

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GEORGE E. DANIELSON
29TH DISTRICT, CALIFORNIA

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Congress of the United States
House of Representatives
Washington, D.C. 20515

file

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MEMBER'S ATTENTION FEB 7 1974

February 6, 1974

Re: S. 2589

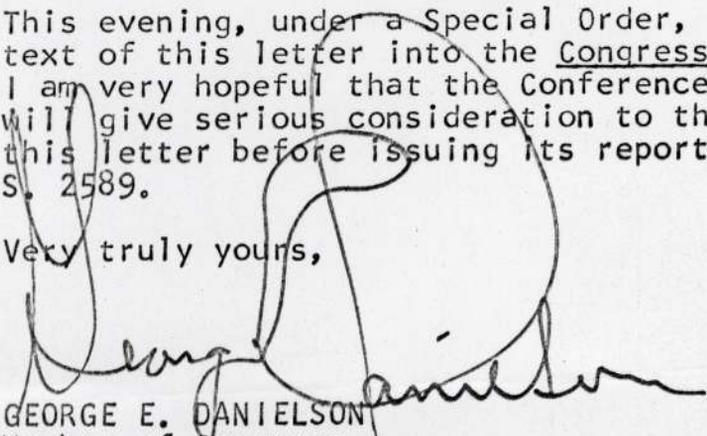
Dear Conferee:

Attached is a self-explanatory letter I have received from the Administrative Office of the United States Courts, dated today.

This letter points out certain facts which, under the provisions of the Energy Emergency Act as last reported by the Conference Committee, would very probably result in overburdening the United States Courts.

This evening, under a Special Order, I am placing the text of this letter into the Congressional Record. I am very hopeful that the Conference Committee will give serious consideration to the substance of this letter before issuing its report on the bill, S. 2589.

Very truly yours,


GEORGE E. DANIELSON
Member of Congress

GED:jbs

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS
SUPREME COURT BUILDING
WASHINGTON, D. C. 20544

February 6, 1974

Honorable George E. Danielson
United States House of
Representatives
Washington, D. C. 20515

Dear Mr. Danielson:

This is in response to a request from Mr. Spear of your staff for information concerning the number of cases which might be brought in the Federal courts under the proposed Energy Emergency Act, S. 2589.

The bill which was reported by the Committee of Conference contained three sections which would directly affect the jurisdiction of the courts and their caseloads. Section 104 amends the Emergency Petroleum Allocation Act of 1973 to authorize a program of end-use rationing. In accordance with the provisions of the Energy Petroleum Allocation Act of 1973 and the Economic Stabilization Act, as amended, which that Act amends, cases arising on this topic could be brought in the United States District Courts and appealed to the Temporary Emergency Court of Appeals. We are unable at this time to estimate the number of cases which might be brought under this section. However, it can be anticipated that the number would be substantial since end-use rationing would effect nearly every citizen of the country.

Under §118, administrative rulemaking would be subject to the provisions of the Administrative Procedure Act, with certain exceptions. Judicial review of rulemaking of general and national applicability would be obtained in the United States Court of Appeals for the District of Columbia. Judicial review of administrative rulemaking of general but not national applicability would be obtained in the United States court of appeals for the appropriate circuit.

Section 118(b)(2) provides that the district courts will have exclusive original jurisdiction over cases and

controversies arising under the Act or regulations issued thereunder, also with certain exceptions. Cases or controversies arising under rules or orders of states or their subdivisions or state or local boards would be heard in either the appropriate state court or, without regard to the amount in controversy, in the district courts of the United States.

Sections 119 and 120 prohibit violations of rules, regulations, and orders, issued pursuant to this Act and provides for civil and criminal penalties. The criminal penalties range from fines of \$5,000 for willful violations to \$50,000 for second offenses. These penalties specified are in excess of those as to which United States magistrates are authorized to exercise jurisdiction. We do not, of course, have any information relative to the type of regulations which would be promulgated beyond the information contained in the Congressional Record. During the Senate debate on December 21, there was inserted in the Record a list of possible conservation actions, which list appeared also in the Record of January 29 at page S 698. The list included the following:

- "1. Retail gasoline sales may be banned from 9:00 p.m. Saturdays to 12:01 a.m. Mondays.
2. An additional day on which retail gasoline sales may be banned.
3. Maximum speed limit of 55 MPH for intercity buses and trucks and 50 MPH for automobiles. . . .
7. Turn down thermostats 6 degrees in residential and 10 degrees in commercial establishments. . . .
9. Require that retail sales of gasoline be limited to a specified amount per sale or per day
14. Restrict weekend and evening lighting in commercial and industrial facilities. . . .
17. Limit hours of operation for commercial, industrial and governmental establishments. . . ."

Of course we are unable to state with any degree of specificity the number of violations which might occur or be prosecuted. However, United States magistrates who have

jurisdiction only over traffic offenses in Federal enclaves last year tried 55,888 traffic cases of all types. While recognizing that most speeding offenses would continue to be handled in the State and local courts, we do not consider it unrealistic to expect a five-fold increase in the number of such offenses being brought before Federal court. These cases would not be tried by the magistrate but would be tried by the United States district judges.

We regret that we are unable to provide any further statistical information with respect to these aspects of the bill.

Sincerely,

Rowland F. Kirks
Director