

# A RESOLUTION

To respectfully urge Congress and President Donald Trump to amend the Federal Clean Air Act to eliminate the requirement to implement the E-Check Program and direct the Administrator of USEPA to begin new rule-making procedures under the Administrative Procedures Act to repeal and replace the 2015 National Ambient Air Quality Standards; to respectfully urge Congress and President Donald Trump to pass legislation to achieve improvements in air quality more efficiently while allowing companies to innovate and help the economy grow; to urge the Administrator of USEPA to alleviate burdensome requirements of the E-Check Program and the Clean Air Act if Congress and the President fail to act; and to encourage OEPA to explore alternatives to E-Check in Ohio.

*Be it resolved by the House of Representatives of the State of Ohio:*

WHEREAS, The E-Check Program administered by the Ohio Environmental Protection Agency (OEPA) imposes burdensome and costly motor vehicle emissions testing requirements on the citizenry of Northeast Ohio and wastes Ohio's valuable tax dollars; and

WHEREAS, The E-Check Program has a disproportionate impact on poor and lower and middle class citizens because such citizens are more likely to own older motor vehicles that are subject to the E-Check Program, and those vehicles are more likely to fail an emissions test under the Program. In many cases, a vehicle that is subject to the E-Check Program is the only mode of transportation available to an individual and is vital for maintaining employment, making doctor visits, purchasing food and other necessities, and living a stable and normal life; and

WHEREAS, E-Check inspectors indicate that older vehicles function well and produce minimal pollution but, nonetheless, fail E-Check emissions tests. Often, this is due to antiquated on-board computers that malfunction more frequently. Thus, in such cases, E-Check results in eliminating an individual's only mode of transportation simply because of an inconsequential computer malfunction that is not related to actual emissions or increased pollution; and

WHEREAS, Air quality throughout the United States has improved significantly and dramatically from 1970 to the present day. For example, USEPA found that by 2015, the combined emissions of six common pollutants (including carbon monoxide, lead, nitrogen dioxide, and volatile organic compounds) had dropped 71%. This progress occurred while the U.S. population and economy continued to grow, Americans drove more miles, and energy use increased; and

WHEREAS, Many tests indicate that no measurable improvement in air quality is achieved through implementation of the E-Check Program. Many experts believe that improved technology by automobile manufacturers has reduced motor vehicle emissions much more effectively than

government-imposed emissions testing. For example, according to University of Denver Senior Research Engineer Gary Bishop, emission testing "costs lots of money" but "does almost nothing to clean up the air." Bishop has pioneered many new methods of emission sensor testing and found that in Tulsa, Oklahoma, which has no emission testing program, emissions were no worse than in areas with strict emission testing regimes. Other reports, such as a recent State of Colorado audit, conclude that the "public need" for emissions testing is "uncertain" and recommend exempting vehicles from model year 2001 onward. In Ohio, implementation of this recommendation would result in almost total elimination of E-Check because Ohio does not test vehicles more than 25 years old. Thus, only vehicles built between 1991 and 2000 would be subject to testing under the E-Check Program; and

WHEREAS, The Federal Clean Air Act requires geographic areas within states that are classified as nonattainment for specified criteria pollutants to implement emissions reduction strategies including, in some circumstances, vehicle emissions testing programs; and

WHEREAS, The Northeast Ohio area is currently in attainment status based on the most recently available air quality monitoring data; however, OEPA continues to require the implementation of the E-Check Program, notwithstanding that other alternative emissions reduction strategies are available; and

WHEREAS, Through rulemaking, USEPA has made the emissions standards for certain criteria pollutants more stringent, thereby threatening Northeast Ohio's attainment status; and

WHEREAS, In particular, the stringency of the 2015 National Ambient Air Quality Standards (NAAQS) directly impedes the progress Northeast Ohio has made in reaching attainment status. Northeast Ohio was redesignated as attainment for ozone under the NAAQS that were established in 2008. As part of that redesignation, Ohio amended its state implementation plan under the Clean Air Act to provide for the maintenance of the ozone standard in Northeast Ohio for ten years. The plan includes E-Check as one of the methods for maintaining that ozone standard in Northeast Ohio. If Ohio wants to eliminate E-Check in Northeast Ohio, it must show that its elimination would not interfere with any applicable requirement concerning attainment or result in any "backsliding" of attainment status. In 2015, USEPA made the standard for ozone more stringent. The result is that Northeast Ohio is unjustly subjected to an unattainably harsh standard that has changed course mid-stream, which makes it difficult to ever eliminate the E-Check Program in that area; and

WHEREAS, The chronological proximity between the 2008 and 2015 revisions to the NAAQS and frequency with which NAAQS are revised does not give Northeast Ohio and other areas an opportunity to properly devise a plan to reach attainment status or any assurance that attainment status will not be interfered with. Thus, planning ahead in order to comply with the requirements is impossibly difficult; and

WHEREAS, The inability to implement viable alternatives to E-Check unjustly results in the continued implementation of the E-Check Program in Northeast Ohio; and

WHEREAS, The E-Check Program is currently in place in seven counties in Ohio, all in Northeast Ohio. Implementation of the Program costs Ohio about \$10.6 million dollars per year. As a result of the 2015 NAAQS, it is projected that at least one other major area, Southwest Ohio (including the areas of Cincinnati and Dayton), will be required to implement the E-Check Program or find other reductions in emissions by 2020. If Southwest Ohio implements the E-Check Program, Ohio's total costs may be as high as \$25 million per year. It is also possible that the 2015 NAAQS will cause other areas of Ohio to fall out of attainment status, thus, increasing the costs even higher. While the purported purpose of the E-Check Program is to contribute to a cleaner environment, it appears that Ohio's tax dollars would be better spent on more effective environmental programs such as saving Ohio's nuclear industry, providing subsidies to wind and solar projects, or improving water quality in Lake Erie; and

WHEREAS, Prevailing winds from manufacturing areas to the west of Northeast Ohio, such as Chicago, Detroit and Toledo, can increase air pollutants in Northeast Ohio, and, in addition, car and truck travel on interstate highways, such as Interstate 90 and the Ohio Turnpike, to and through the

area regularly results in increased air pollution; now therefore be it

RESOLVED, That we, the members of the 132nd General Assembly of the State of Ohio, respectfully urge Congress and President Donald Trump to do all of the following:

-- Amend the Federal Clean Air Act to eliminate the requirement to implement the E-Check Program;

-- Direct the Administrator of USEPA to begin new rule-making procedures under the Administrative Procedures Act to repeal and replace the 2015 NAAQS and prohibit the Administrator from revising the NAAQS more than once every fifteen years;

-- Introduce and pass legislation to achieve improvements in air quality while allowing companies to innovate and help the economy grow; and be it further

RESOLVED, That we, the members of the House of Representatives of the 132nd General Assembly of the State of Ohio, urge the Administrator of USEPA to alleviate burdensome and unproductive requirements of the E-Check Program and the Clean Air Act if Congress and the President fail to act, and encourage OEPA to explore alternatives to E-Check in Ohio and to reallocate money used for the E-Check Program to other environmentally beneficial programs; and be it further

RESOLVED, That the Clerk of the Ohio House of Representatives transmit duly authenticated copies of this resolution to the members of the Ohio Congressional delegation, the Administrator of the USEPA, the Director of OEPA, the Executive Office of the President of the United States, and the news media of Ohio.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

Adopted \_\_\_\_\_, 20\_\_\_\_