

111TH CONGRESS
1ST SESSION

S. 1135

To establish a voluntary program in the National Highway Traffic Safety Administration to encourage consumers to trade-in older vehicles for more fuel efficient vehicles, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2009

Ms. STABENOW (for herself, Mr. BROWNBACK, Mr. DURBIN, Mr. VOINOVICH, Mr. LEVIN, Mr. BROWN, Ms. MIKULSKI, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish a voluntary program in the National Highway Traffic Safety Administration to encourage consumers to trade-in older vehicles for more fuel efficient vehicles, 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. SHORT TITLE.**

4 This Act may be cited as the “Drive America For-
5 ward Act of 2009”.

1 **SEC. 2. DRIVE AMERICA FORWARD PROGRAM.**

2 (a) ESTABLISHMENT.—There is established in the
3 National Highway Traffic Safety Administration a vol-
4 untary program to be known as the “Drive America For-
5 ward Program” through which the Secretary, in accord-
6 ance with this section and the regulations promulgated
7 under subsection (d), shall—

8 (1) authorize the issuance of an electronic
9 voucher, subject to the specifications set forth in
10 subsection (e), to offset the purchase price or lease
11 price for a qualifying lease of a new fuel efficient
12 automobile upon the surrender of an eligible trade-
13 in vehicle to a dealer participating in the Program;

14 (2) certify dealers for participation in the Pro-
15 gram—

16 (A) to accept vouchers as provided in this
17 section as partial payment or down payment for
18 the purchase or qualifying lease of any new fuel
19 efficient automobile offered for sale or lease by
20 that dealer; and

21 (B) in accordance with subsection (c)(2),
22 to transfer each eligible trade-in vehicle surren-
23 dered to the dealer under the Program to an
24 entity for disposal;

25 (3) in consultation with the Secretary of the
26 Treasury, make electronic payments to dealers for

1 vouchers accepted by such dealers, in accordance
2 with the regulations issued under subsection (d);

3 (4) in consultation with the Secretary of the
4 Treasury, provide for the payment of rebates to per-
5 sons who qualify for a rebate under subsection
6 (c)(3); and

7 (5) in consultation with the Secretary of the
8 Treasury and the Inspector General of the Depart-
9 ment of Transportation, establish and provide for
10 the enforcement of measures to prevent and penalize
11 fraud under the Program.

12 (b) QUALIFICATIONS FOR AND VALUE OF VOUCH-
13 ERS.—A voucher issued under the Program shall have a
14 value that may be applied to offset the purchase price or
15 lease price for a qualifying lease of a new fuel efficient
16 automobile as follows:

17 (1) \$3,500 VALUE.—The voucher may be used
18 to offset the purchase price or lease price of the new
19 fuel efficient automobile by \$3,500 if—

20 (A) the new fuel efficient automobile is a
21 passenger automobile and the combined fuel
22 economy value of such automobile is at least 4
23 miles per gallon higher than the combined fuel
24 economy value of the eligible trade-in vehicle;

1 (B) the new fuel efficient automobile is a
2 category 1 truck and the combined fuel econ-
3 omy value of such truck is at least 2 miles per
4 gallon higher than the combined fuel economy
5 value of the eligible trade-in vehicle;

6 (C) the new fuel efficient automobile is a
7 category 2 truck that has a combined fuel econ-
8 omy value of at least 15 miles per gallon and—

9 (i) the eligible trade-in vehicle is a
10 category 2 truck and the combined fuel
11 economy value of the new fuel efficient
12 automobile is at least 1 mile per gallon
13 higher than the combined fuel economy
14 value of the eligible trade-in vehicle; or

15 (ii) the eligible trade-in vehicle is a
16 category 3 truck of model year 2001 or
17 earlier; or

18 (D) the new fuel efficient automobile is a
19 category 3 truck and the eligible trade-in vehi-
20 cle is a category 3 truck of model year of 2001
21 or earlier and is of similar size or larger than
22 the new fuel efficient automobile as determined
23 in a manner prescribed by the Secretary.

1 (2) \$4,500 VALUE.—The voucher may be used
2 to offset the purchase price or lease price of the new
3 fuel efficient automobile by \$4,500 if—

4 (A) the new fuel efficient automobile is a
5 passenger automobile and the combined fuel
6 economy value of such automobile is at least 10
7 miles per gallon higher than the combined fuel
8 economy value of the eligible trade-in vehicle;

9 (B) the new fuel efficient automobile is a
10 category 1 truck and the combined fuel econ-
11 omy value of such truck is at least 5 miles per
12 gallon higher than the combined fuel economy
13 value of the eligible trade-in vehicle; or

14 (C) the new fuel efficient automobile is a
15 category 2 truck that has a combined fuel econ-
16 omy value of at least 15 miles per gallon and
17 the combined fuel economy value of such truck
18 is 2 miles per gallon higher than the combined
19 fuel economy value of the eligible trade-in vehi-
20 cle and the eligible trade-in vehicle is a category
21 2 truck.

22 (c) PROGRAM SPECIFICATIONS.—

23 (1) LIMITATIONS.—

24 (A) GENERAL PERIOD OF ELIGIBILITY.—A
25 voucher issued under the Program shall be used

1 only for the purchase or qualifying lease of new
2 fuel efficient automobiles that occur between—

3 (i) March 30, 2009; and

4 (ii) the day that is 1 year after the
5 date on which the regulations promulgated
6 under subsection (d) are implemented.

7 (B) NUMBER OF VOUCHERS PER PERSON
8 AND PER TRADE-IN VEHICLE.—Not more than
9 1 voucher may be issued for a single person and
10 not more than 1 voucher may be issued for the
11 joint registered owners of a single eligible trade-
12 in vehicle.

13 (C) NO COMBINATION OF VOUCHERS.—
14 Only 1 voucher issued under the Program may
15 be applied toward the purchase or qualifying
16 lease of a single new fuel efficient automobile.

17 (D) CAP ON FUNDS FOR CATEGORY 3
18 TRUCKS.—Not more than 7.5 percent of the
19 total funds made available for the Program
20 shall be used for vouchers for the purchase or
21 qualifying lease of category 3 trucks.

22 (E) COMBINATION WITH OTHER INCEN-
23 TIVES PERMITTED.—The availability or use of a
24 Federal, State, or local incentive or a State-
25 issued voucher for the purchase or lease of a

1 new fuel efficient automobile shall not limit the
2 value or issuance of a voucher under the Pro-
3 gram to any person otherwise eligible to receive
4 such a voucher.

5 (F) NO ADDITIONAL FEES.—A dealer par-
6 ticipating in the program may not charge a per-
7 son purchasing or leasing a new fuel efficient
8 automobile any additional fees associated with
9 the use of a voucher under the Program.

10 (G) NUMBER AND AMOUNT.—The total
11 number and value of vouchers issued under the
12 Program may not exceed the amounts appro-
13 priated for such purpose.

14 (2) DISPOSITION OF ELIGIBLE TRADE-IN VEHI-
15 CLES.—

16 (A) IN GENERAL.—For each eligible trade-
17 in vehicle surrendered to a dealer under the
18 Program, the dealer shall certify to the Sec-
19 retary, in such manner as the Secretary shall
20 prescribe by rule, that the dealer—

21 (i) has not and will not sell, lease, ex-
22 change, or otherwise dispose of the vehicle
23 for use as an automobile in the United
24 States or in any other country; and

1 (ii) will transfer the vehicle (including
2 the engine and drive train), in such man-
3 ner as the Secretary prescribes, to an enti-
4 ty that will ensure that the vehicle—

5 (I) will be crushed or shredded
6 within such period and in such man-
7 ner as the Secretary prescribes; and

8 (II) has not been, and will not
9 be, sold, leased, exchanged, or other-
10 wise disposed of for use as an auto-
11 mobile in the United States or in any
12 other country.

13 (B) SAVINGS PROVISION.—Nothing in sub-
14 paragraph (A) may be construed to preclude a
15 person who dismantles or disposes of the vehicle
16 from—

17 (i) selling any parts of the disposed
18 vehicle other than the engine block and
19 drive train (unless the engine or drive train
20 has been crushed or shredded); or

21 (ii) retaining the proceeds from such
22 sale.

23 (C) COORDINATION.—The Secretary shall
24 coordinate with the Attorney General to ensure
25 that the National Motor Vehicle Title Informa-

1 tion System and other publicly accessible sys-
2 tems are appropriately updated on a timely
3 basis to reflect the crushing or shredding of ve-
4 hicles under this section and appropriate reclas-
5 sification of the vehicles' titles. The commercial
6 market shall also have electronic and commer-
7 cial access to the vehicle identification numbers
8 of vehicles that have been disposed of on a
9 timely basis.

10 (3) ELIGIBLE PURCHASES OR LEASES PRIOR TO
11 DATE OF ENACTMENT.—A person who purchased or
12 leased a new fuel efficient vehicle after March 30,
13 2009, and before the date of the enactment of this
14 Act is eligible for a cash rebate equivalent to the
15 amount described in subsection (b)(1) if the person
16 provides proof satisfactory to the Secretary that—

17 (A)(i) the person was the registered owner
18 of an eligible trade-in vehicle; or

19 (ii) if the person leased the vehicle, the
20 lease was a qualifying lease; and

21 (B) the vehicle has been disposed of in ac-
22 cordance with clauses (i) and (ii) of paragraph
23 (2)(A).

24 (d) REGULATIONS.—Notwithstanding the require-
25 ments of section 553 of title 5, United States Code, the

1 Secretary shall promulgate final regulations to implement
2 the Program not later than 30 days after the date of the
3 enactment of this Act. Such regulations shall—

4 (1) provide for a means of certifying dealers for
5 participation in the Program;

6 (2) establish procedures for the reimbursement
7 of dealers participating in the Program to be made
8 through electronic transfer of funds for both the
9 amount of the vouchers and any reasonable adminis-
10 trative costs incurred by the dealer as soon as prac-
11 ticable but no longer than 10 days after the submis-
12 sion of a voucher for the new fuel efficient auto-
13 mobile to the Secretary;

14 (3) allow the dealer to use the voucher in addi-
15 tion to any other rebate or discount offered by the
16 dealer or the manufacturer for the new fuel efficient
17 automobile and prohibit the dealer from using the
18 voucher to offset any such other rebate or discount;

19 (4) require dealers to disclose to the person
20 trading in an eligible trade-in vehicle the best esti-
21 mate of the scrappage value of such vehicle and to
22 permit the dealer to retain \$50 of any amounts paid
23 to the dealer for scrappage of the automobile as pay-
24 ment for any administrative costs to the dealer asso-
25 ciated with participation in the Program;

1 (5) establish a process by which persons who
2 qualify for a rebate under subsection (c)(3) may
3 apply for such rebate;

4 (6) consistent with subsection (c)(2), establish
5 requirements and procedures for the disposal of eli-
6 gible trade-in vehicles and provide such information
7 as may be necessary to entities engaged in such dis-
8 posal to ensure that such vehicles are disposed of in
9 accordance with such requirements and procedures,
10 including—

11 (A) requirements for the removal and ap-
12 propriate disposition of refrigerants, antifreeze,
13 lead products, mercury switches, and such other
14 toxic or hazardous vehicle components prior to
15 the crushing or shredding of an eligible trade-
16 in vehicle, in accordance with rules established
17 by the Secretary in consultation with the Ad-
18 ministrator of the Environmental Protection
19 Agency, and in accordance with other applicable
20 Federal or State requirements;

21 (B) a mechanism for dealers to certify to
22 the Secretary that each eligible trade-in vehicle
23 will be transferred to an entity that will ensure
24 that the vehicle is disposed of, in accordance
25 with such requirements and procedures, and to

1 submit the vehicle identification numbers of the
2 vehicles disposed of and the new fuel efficient
3 automobile purchased with each voucher; and

4 (C) a list of entities to which dealers may
5 transfer eligible trade-in vehicles for disposal;

6 (7) consistent with subsection (c)(2), establish
7 requirements and procedures for the disposal of eli-
8 gible trade-in vehicles and provide such information
9 as may be necessary to entities engaged in such dis-
10 posal to ensure that such vehicles are disposed of in
11 accordance with such requirements and procedures;
12 and

13 (8) provide for the enforcement of the penalties
14 described in subsection (e).

15 (e) ANTI-FRAUD PROVISIONS.—

16 (1) VIOLATION.—It shall be unlawful for any
17 person to knowingly violate any provision under this
18 section or any regulations issued pursuant to sub-
19 section (d).

20 (2) PENALTIES.—Any person who commits a
21 violation described in paragraph (1) shall be liable to
22 the United States Government for a civil penalty of
23 not more than \$15,000 for each violation.

24 (f) INFORMATION TO CONSUMERS AND DEALERS.—

25 Not later than 30 days after the date of the enactment

1 of this Act, and promptly upon the update of any relevant
2 information, the Secretary shall make available on an
3 Internet website and through other means determined by
4 the Secretary information about the Program, including—

5 (1) how to determine if a vehicle is an eligible
6 trade-in vehicle;

7 (2) how to participate in the Program, includ-
8 ing how to determine participating dealers; and

9 (3) a comprehensive list, by make and model, of
10 new fuel efficient automobiles meeting the require-
11 ments of the Program.

12 Once such information is available, the Secretary shall
13 conduct a public awareness campaign to inform consumers
14 about the Program and where to obtain additional infor-
15 mation.

16 (g) RECORDKEEPING AND REPORT.—

17 (1) DATABASE.—The Secretary shall maintain
18 a database of the vehicle identification numbers of
19 all new fuel efficient vehicles purchased or leased
20 and all eligible trade-in vehicles disposed of under
21 the Program.

22 (2) REPORT.—Not later than 60 days after the
23 termination date described in subsection
24 (c)(1)(A)(ii), the Secretary shall submit a report to
25 the Committee on Energy and Commerce of the

1 House of Representatives and the Committee on
2 Commerce, Science, and Transportation of the Sen-
3 ate describing the efficacy of the Program, includ-
4 ing—

5 (A) a description of Program results, in-
6 cluding—

7 (i) the total number and amount of
8 vouchers issued for purchase or lease of
9 new fuel efficient automobiles by manufac-
10 turer (including aggregate information
11 concerning the make, model, model year)
12 and category of automobile;

13 (ii) aggregate information regarding
14 the make, model, model year, and manu-
15 facturing location of vehicles traded in
16 under the Program; and

17 (iii) the location of sale or lease;

18 (B) an estimate of the overall increase in
19 fuel efficiency in terms of miles per gallon, total
20 annual oil savings, and total annual greenhouse
21 gas reductions, as a result of the Program; and

22 (C) an estimate of the overall economic
23 and employment effects of the Program.

24 (h) EXCLUSION OF VOUCHERS AND REBATES FROM

25 INCOME.—

1 (1) FOR PURPOSES OF ALL FEDERAL PRO-
2 GRAMS.—A voucher issued under the Program or a
3 cash rebate issued under subsection (c)(3) shall not
4 be regarded as income and shall not be regarded as
5 a resource for the month of receipt of the voucher
6 or rebate and the following 12 months, for purposes
7 of determining the eligibility of the recipient of the
8 voucher or rebate (or the recipient’s spouse or other
9 family or household members) for benefits or assist-
10 ance, or the amount or extent of benefits or assist-
11 ance, under any Federal program.

12 (2) FOR PURPOSES OF TAXATION.—A voucher
13 issued under the Program or a cash rebate issued
14 under subsection (c)(3) shall not be considered as
15 gross income for purposes of the Internal Revenue
16 Code of 1986.

17 (i) DEFINITIONS.—As used in this section—

18 (1) the term “passenger automobile” means a
19 passenger automobile, as defined in section
20 32901(a)(18) of title 49, United States Code, that
21 has a combined fuel economy value of at least 22
22 miles per gallon;

23 (2) the term “category 1 truck” means a non-
24 passenger automobile, as defined in section
25 32901(a)(17) of title 49, United States Code, that

1 has a combined fuel economy value of at least 18
2 miles per gallon, except that such term does not in-
3 clude a category 2 truck;

4 (3) the term “category 2 truck” means a non-
5 passenger automobile, as defined in section
6 32901(a)(17) of title 49, United States Code, that
7 is a large van or a large pickup, as categorized by
8 the Secretary using the method used by the Environ-
9 mental Protection Agency and described in the re-
10 port entitled “Light-Duty Automotive Technology
11 and Fuel Economy Trends: 1975 through 2008”;

12 (4) the term “category 3 truck” means a work
13 truck, as defined in section 32901(a)(19) of title 49,
14 United States Code;

15 (5) the term “combined fuel economy value”
16 means—

17 (A) with respect to a new fuel efficient
18 automobile, the number, expressed in miles per
19 gallon, centered below the words “Combined
20 Fuel Economy” on the label required to be af-
21 fixed or caused to be affixed on a new auto-
22 mobile pursuant to subpart D of part 600 of
23 title 40, Code of Federal Regulations;

24 (B) with respect to an eligible trade-in ve-
25 hicle, the equivalent of the number described in

1 subparagraph (A), and posted under the words
2 “Estimated New EPA MPG” and above the
3 word “Combined” for vehicles of model year
4 1984 through 2007, or posted under the words
5 “New EPA MPG” and above the word “Com-
6 bined” for vehicles of model year 2008 or later
7 on the fueleconomy.gov website of the Environ-
8 mental Protection Agency for the make, model,
9 and year of such vehicle; or

10 (C) with respect to an eligible trade-in ve-
11 hicle manufactured between model years 1978
12 through 1984, the equivalent of the number de-
13 scribed in subparagraph (A) as determined by
14 the Secretary (and posted on the website of the
15 National Highway Traffic Safety Administra-
16 tion) using data maintained by the Environ-
17 mental Protection Agency for the make, model,
18 and year of such vehicle;

19 (6) the term “dealer” means a person licensed
20 by a State who engages in the sale of new auto-
21 mobiles to ultimate purchasers;

22 (7) the term “eligible trade-in vehicle” means
23 an automobile or a work truck (as such terms are
24 defined in section 32901(a) of title 49, United

1 States Code) that, at the time it is presented for
2 trade-in under this section—

3 (A) is in drivable condition;

4 (B) has been continuously insured con-
5 sistent with the applicable State law and reg-
6 istered to the same owner for a period of not
7 less than 1 year immediately prior to such
8 trade-in;

9 (C) was manufactured less than 25 years
10 before the date of the trade-in; and

11 (D) in the case of an automobile, has a
12 combined fuel economy value of 18 miles per
13 gallon or less;

14 (8) the term “new fuel efficient automobile”
15 means an automobile described in paragraph (1),
16 (2), (3), or (4)—

17 (A) the equitable or legal title of which has
18 not been transferred to any person other than
19 the ultimate purchaser;

20 (B) that carries a manufacturer’s sug-
21 gested retail price of \$45,000 or less;

22 (C) that—

23 (i) in the case of passenger auto-
24 mobiles, category 1 trucks, or category 2
25 trucks, is certified to applicable standards

1 under section 86.1811–04 of title 40, Code
2 of Federal Regulations; or

3 (ii) in the case of category 3 trucks,
4 is certified to the applicable vehicle or en-
5 gine standards under section 86.1816–08,
6 86.007–11, or 86.008–10 of title 40, Code
7 of Federal Regulations; and

8 (D) that has the combined fuel economy
9 value of—

10 (i) 22 miles per gallon for a passenger
11 automobile;

12 (ii) 18 miles per gallon for a category
13 1 truck; or

14 (iii) 15 miles per gallon for a category
15 2 truck;

16 (9) the term “Program” means the Drive
17 America Forward Program established by this sec-
18 tion;

19 (10) the term “qualifying lease” means a lease
20 of an automobile for a period of not less than 5
21 years;

22 (11) the term “scrappage value” means the
23 amount received by the dealer for a vehicle upon
24 transferring title of such vehicle to the person re-

1 sponsible for ensuring the dismantling and destroy-
2 ing of the vehicle;

3 (12) the term “Secretary” means the Secretary
4 of Transportation acting through the National High-
5 way Traffic Safety Administration;

6 (13) the term “ultimate purchaser” means,
7 with respect to any new automobile, the first person
8 who in good faith purchases such automobile for
9 purposes other than resale; and

10 (14) the term “vehicle identification number”
11 means the 17-character number used by the auto-
12 mobile industry to identify individual automobiles.

13 **SEC. 3. REALLOCATION OF APPROPRIATIONS.**

14 From the amounts appropriated under the American
15 Recovery and Reinvestment Act of 2009 (Public Law 111–
16 5), the Director of the Office of Management and Budget
17 may allocate such sums as the Director determines to be
18 necessary to carry out the Drive America Forward Pro-
19 gram established under this Act.

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