

118TH CONGRESS  
1ST SESSION

# S. 1741

To amend the Clean Air Act to prohibit electric vehicle original equipment manufacturers from participating in the renewable fuel program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 18, 2023

Mr. GRASSLEY (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Clean Air Act to prohibit electric vehicle original equipment manufacturers from participating in the renewable fuel program, 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 “No Fuel Credits for  
5 Batteries Act of 2023”.

6 **SEC. 2. REVISIONS TO CREDIT PROGRAM.**

7 (a) AMENDMENTS.—Section 211(o)(5) of the Clean  
8 Air Act (42 U.S.C. 7545(o)(5)) is amended—

9 (1) in subparagraph (A)—

1 (A) in clause (ii), by striking “and” at the  
2 end;

3 (B) in clause (iii), by striking the period at  
4 the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(iv) for the prohibition of generation  
7 of credits by electric vehicle original equip-  
8 ment manufacturers (as defined in section  
9 3(a) of the No Fuel Credits for Batteries  
10 Act of 2023).”;

11 (2) in subparagraph (B)—

12 (A) by striking “A person” and inserting  
13 the following:

14 “(i) IN GENERAL.—Except as pro-  
15 vided in clause (ii), a person”; and

16 (B) by adding at the end the following:

17 “(ii) EXCEPTION.—A person that is  
18 an electric vehicle original equipment man-  
19 ufacturer (as defined in section 3(a) of the  
20 No Fuel Credits for Batteries Act of 2023)  
21 may not, for the purpose of complying with  
22 paragraph (2), use or transfer all or a por-  
23 tion of the credits to another person.”; and

24 (3) in subparagraph (E)—

1 (A) by striking the period at the end and  
2 inserting “; and”;

3 (B) by striking “Administrator; and (ii)  
4 for the use” and inserting the following: “Ad-  
5 ministrator;

6 “(ii) for the use”;

7 (C) by striking “regulations providing: (i)  
8 for the generation” and inserting the following:  
9 “regulations providing—

10 “(i) for the generation”; and

11 (D) by adding at the end the following:

12 “(iii) for the prohibition of the gen-  
13 eration, use, or transfer of the appropriate  
14 amount of credits by electric vehicle origi-  
15 nal equipment manufacturers (as defined  
16 in section 3(a) of the No Fuel Credits for  
17 Batteries Act of 2023) for additional re-  
18 newable fuel.”.

19 (b) REGULATIONS.—Not later than 180 days after  
20 the date of enactment of this Act, the Administrator of  
21 the Environmental Protection Agency shall promulgate a  
22 final rule to carry out the amendments made by subsection  
23 (a).

24 (c) EFFECTIVE DATE.—The amendments made by  
25 subsection (a) take effect on January 1, 2024.

1 **SEC. 3. INELIGIBILITY FOR RENEWABLE FUEL STANDARD.**

2 (a) DEFINITIONS.—In this section:

3 (1) ADMINISTRATOR.—The term “Adminis-  
4 trator” means the Administrator of the Environ-  
5 mental Protection Agency.

6 (2) ELECTRIC VEHICLE ORIGINAL EQUIPMENT  
7 MANUFACTURER.—The term “electric vehicle origi-  
8 nal equipment manufacturer” means the original  
9 equipment manufacturer of—

10 (A) an electric light-duty vehicle; or

11 (B) an electric light-duty truck.

12 (3) PROPOSED ERIN PROGRAM.—The term  
13 “proposed eRIN program” means the program gov-  
14 erning the generation of renewable identification  
15 numbers representing renewable electricity by elec-  
16 tric vehicle original equipment manufacturers, as de-  
17 scribed in—

18 (A) the proposed rule of the Environ-  
19 mental Protection Agency entitled “Renewable  
20 Fuel Standard (RFS) Program: Standards for  
21 2023–2025 and Other Changes” (87 Fed. Reg.  
22 80582 (December 30, 2022)) (or any successor  
23 or substantially related proposal);

24 (B) the regulatory impact analysis of the  
25 Assessment and Standards Division of the Of-  
26 fice of Transportation and Air Quality of the

1 Environmental Protection Agency entitled  
2 “Draft Regulatory Impact Analysis: RFS  
3 Standards for 2023–2025 and Other Changes”,  
4 with docket number EPA–HQ–OAR–2021–  
5 0427–0267, and dated November 2022; and

6 (C) the memorandum of the Office of  
7 Transportation and Air Quality of the Environ-  
8 mental Protection Agency entitled “Examples  
9 of RIN generation under the proposed RFS  
10 eRIN provisions”, with docket number EPA–  
11 HQ–OAR–2021–0427–0032, and dated Novem-  
12 ber 22, 2022.

13 (4) RENEWABLE FUEL.—The term “renewable  
14 fuel” has the meaning given the term in section  
15 211(o)(1) of the Clean Air Act (42 U.S.C.  
16 7545(o)(1)).

17 (5) RENEWABLE FUEL PROGRAM.—The term  
18 “renewable fuel program” means the renewable fuel  
19 program under section 211(o) of the Clean Air Act  
20 (42 U.S.C. 7545(o)).

21 (6) RENEWABLE IDENTIFICATION NUMBER.—  
22 The term “renewable identification number” has the  
23 meaning given the term “Renewable Identification  
24 Number (RIN)” in section 80.1401 of title 40, Code  
25 of Federal Regulations (or a successor regulation).

1 (b) **RULE REQUIRED.**—Not later than 180 days after  
2 the date of enactment of this Act, the Administrator shall  
3 promulgate a final rule revising the regulations for car-  
4 rying out the renewable fuel program that—

5 (1) in accordance with the amendments made  
6 by section 2(a), makes electric vehicle original equip-  
7 ment manufacturers ineligible for the generation,  
8 use, or transfer of renewable electricity renewable  
9 identification numbers for compliance with, or any  
10 other purpose under, the renewable fuel program;

11 (2) withdraws the proposed eRIN program;

12 (3) maintains the current equivalence value for  
13 renewable electricity as described in section 80.1415  
14 of title 40, Code of Federal Regulations (as in effect  
15 on the date of enactment of this Act); and

16 (4) eliminates the provisions of the proposed  
17 rule described in subsection (a)(3)(A) affiliated with  
18 the proposed eRIN program.

19 (c) **EFFECTIVE DATE OF REGULATIONS.**—The final  
20 rule required under subsection (b) shall take effect on  
21 January 1, 2024.

22 **SEC. 4. SAVINGS PROVISION.**

23 Nothing in this Act or an amendment made by this  
24 Act limits the authority of the Administrator of the Envi-  
25 ronmental Protection Agency to approve new fuel path-

- 1 ways or review existing fuel pathways under the renewable
- 2 fuel program under section 211(o) of the Clean Air Act
- 3 (42 U.S.C. 7545(o)).

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