

114TH CONGRESS  
2D SESSION

# S. 2603

To deny corporate average fuel economy credits obtained through a violation of law, establish an Air Quality Restoration Trust Fund within the Department of the Treasury, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2016

Mr. MARKEY (for himself and Mr. BLUMENTHAL) 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 deny corporate average fuel economy credits obtained through a violation of law, establish an Air Quality Restoration Trust Fund within the Department of the Treasury, 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 “Compensating Losses  
5 to the Environment from Automobiles with Noxious Un-  
6 disclosed Pollution Act of 2016” or the “CLEANUP Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

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

4           (2) ELECTRIC DRIVE VEHICLE.—The term  
5           “electric drive vehicle” means a vehicle that—

6                   (A)(i) is—

7                           (I) a light-duty vehicle (as defined in  
8                           section 86.1803–01 of title 40, Code of  
9                           Federal Regulations (as in effect on the  
10                          date of enactment of this Act)) that draws  
11                          motive power from a battery with a capac-  
12                          ity of at least 4 kilowatt-hours; or

13                          (II) a heavy-duty vehicle (as defined  
14                          in section 86.1803–01 of title 40, Code of  
15                          Federal Regulations (as in effect on the  
16                          date of enactment of this Act)) with a  
17                          gross vehicle weight rating—

18                                   (aa) greater than 8,500 pounds  
19                                   and less than 14,000 pounds that  
20                                   draws motive power from a battery  
21                                   with a capacity of at least 10 kilo-  
22                                   watt-hours;

23                                   (bb) greater than 14,000 pounds  
24                                   but less than 33,000 pounds that  
25                                   draws motive power from a battery

1 with a capacity of at least 15 kilo-  
2 watt-hours; or

3 (cc) greater than 33,000 pounds  
4 that draws motive power from a bat-  
5 tery with a capacity of at least 20 kil-  
6 owatt-hours; and

7 (ii) can be recharged from an external  
8 source of electricity for motive power; or

9 (B) is a motor vehicle (as defined in sec-  
10 tion 216 of the Clean Air Act (42 U.S.C.  
11 7550)) that draws motive power from a fuel cell  
12 (as defined in section 803 of the Spark M. Mat-  
13 sunaga Hydrogen Act of 2005 (42 U.S.C.  
14 16152)).

15 (3) ELIGIBLE APPLICANT.—The term “eligible  
16 applicant” means—

17 (A) a State;

18 (B) an Indian tribe (as defined in section  
19 4 of the Indian Self-Determination and Edu-  
20 cation Assistance Act (25 U.S.C. 450b));

21 (C) a unit of local government; or

22 (D) a group composed of not fewer than

23 2—

24 (i) States;

25 (ii) Indian tribes; or

1 (iii) units of local government.

2 (4) QUALIFIED ELECTRIC DRIVE VEHICLE IN-  
3 FRASTRUCTURE.—

4 (A) IN GENERAL.—The term “qualified  
5 electric drive vehicle infrastructure” means any  
6 equipment or service that—

7 (i) supports the electric refueling  
8 needs of electric drive vehicles; and

9 (ii) serves smart grid functions (as de-  
10 fined in section 1306(d) the Energy Inde-  
11 pendence and Security Act of 2007 (42  
12 U.S.C. 17386)) that optimize the integra-  
13 tion of electric drive vehicles into the elec-  
14 tric grid.

15 (B) INCLUSIONS.—The term “qualified  
16 electric drive vehicle infrastructure” includes  
17 any equipment or services described in subpara-  
18 graph (A) that is located in a public or private  
19 location, including—

20 (i) a street parking location;

21 (ii) a parking garage;

22 (iii) a parking lot;

23 (iv) a home;

24 (v) a gas station; and

25 (vi) a highway rest stop.



1       “(f) CIVIL PENALTY WITH RESPECT TO AVERAGE  
2 FUEL ECONOMY CREDITS OBTAINED BY REASON OF VIO-  
3 LATION OF LAW.—In addition to any other penalty under  
4 this title and except as provided under subsection (c), a  
5 manufacturer that obtains credits under section 32903 by  
6 reason of a practice that violates this title or title II of  
7 the Clean Air Act (42 U.S.C. 7521 et seq.) is liable to  
8 the Government for a civil penalty in an amount equal  
9 to \$5 multiplied by the number of such credits.”.

10 **SEC. 4. AIR QUALITY RESTORATION TRUST FUND.**

11       (a) ESTABLISHMENT.—There is established in the  
12 Treasury of the United States a trust fund to be known  
13 as the “Air Quality Restoration Trust Fund” (referred to  
14 in this section as the “Trust Fund”), consisting of—

15           (1) such amounts as are deposited in the Trust  
16 Fund under subsection (b); and

17           (2) any interest on, and proceeds from, any in-  
18 vestment made under subsection (d).

19       (b) TRANSFERS.—The Secretary shall deposit in the  
20 Trust Fund an amount equal to all administrative and  
21 civil penalties or other payments paid to the Federal Gov-  
22 ernment after the date of enactment of this Act in connec-  
23 tion with any violation or alleged violation of title II of  
24 the Clean Air Act (42 U.S.C. 7521 et seq.).

1 (c) AVAILABILITY.—Amounts in the Trust Fund  
2 shall—

3 (1) be available for expenditure to the extent  
4 and in the amounts provided in advance by appro-  
5 priation Acts solely for making expenditures under  
6 subsection (f); and

7 (2) remain available until expended, without fis-  
8 cal year limitation.

9 (d) INVESTMENT.—Amounts in the Trust Fund shall  
10 be invested in accordance with section 9702 of title 31,  
11 United States Code.

12 (e) ADMINISTRATION.—Not later than 180 days after  
13 the date of enactment of this Act, after providing notice  
14 and an opportunity for public comment, the Secretary, in  
15 consultation with the Administrator and the heads of any  
16 other relevant Federal agency, shall establish such proce-  
17 dures as the Secretary determines to be necessary to de-  
18 posit amounts in, and expend amounts from, the Trust  
19 Fund pursuant to this section, including—

20 (1) procedures to assess whether a project car-  
21 ried out under subsection (f) achieves compliance  
22 with applicable requirements, including procedures  
23 by which the Secretary may determine whether an  
24 expenditure pursuant to the project achieves compli-  
25 ance;

1           (2) auditing requirements to ensure that  
2 amounts in the Trust Fund are expended as in-  
3 tended; and

4           (3) procedures for identification and allocation  
5 of funds available to the Secretary under other pro-  
6 visions of law that may be necessary to pay the ad-  
7 ministrative expenses directly attributable to the  
8 management of the Trust Fund.

9           (f) USE OF FUNDS.—Amounts from the Trust Fund  
10 shall be available solely for making grants to eligible appli-  
11 cants to support projects that—

12           (1) increase qualified electric drive vehicle infra-  
13 structure;

14           (2) retrofit school buses or heavy-duty fleets to  
15 reduce air emissions significantly;

16           (3) purchase hybrid or zero emissions school  
17 buses or heavy-duty vehicles;

18           (4) purchase electric drive vehicles for munic-  
19 ipal fleets;

20           (5) provide public health grants to help track,  
21 treat, and reduce the number of air emissions-re-  
22 lated illnesses, such as asthma, cardiovascular dis-  
23 ease, and lung cancer; or



- 1           (6) provide grants for projects to improve air
- 2           quality in low-income communities.

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