

115TH CONGRESS  
2D SESSION

# S. 3664

To amend the Clean Air Act to create a national zero-emission vehicle standard, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 28, 2018

Mr. MERKLEY (for himself and Mr. WHITEHOUSE) 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 create a national zero-emission vehicle standard, 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 “Zero-Emission Vehicles  
5 Act of 2018”.

6 **SEC. 2. NATIONAL ZERO-EMISSION VEHICLE STANDARD.**

7 (a) NATIONAL ZERO-EMISSION VEHICLE STAND-  
8 ARD.—Part A of title II of the Clean Air Act (42 U.S.C.  
9 7521 et seq.) is amended by adding at the end the fol-  
10 lowing:

1 **“SEC. 220. NATIONAL ZERO-EMISSION VEHICLE STANDARD.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) BASE QUANTITY OF NEW PASSENGER VE-  
4 HICLE SALES.—The term ‘base quantity of new pas-  
5 senger vehicle sales’ means the total quantity of new  
6 passenger vehicles sold by a vehicle manufacturer  
7 during the most recent calendar year.

8 “(2) PASSENGER VEHICLE.—The term ‘pas-  
9 senger vehicle’ has the meaning given the term ‘pas-  
10 senger motor vehicle’ in section 32101 of title 49,  
11 United States Code.

12 “(3) QUALIFIED ELECTRIC VEHICLE.—The  
13 term ‘qualified electric vehicle’ means a passenger  
14 vehicle that is—

15 “(A) a new qualified hybrid motor vehicle  
16 (as defined in section 30B(d)(3) of the Internal  
17 Revenue Code of 1986); or

18 “(B) a new qualified plug-in electric drive  
19 motor vehicle (as defined in section 30D(d) of  
20 the Internal Revenue Code of 1986).

21 “(4) RETIRE.—The term ‘retire’, with respect  
22 to a zero-emission vehicle credit, means to disqualify  
23 the zero-emission vehicle credit for any subsequent  
24 use under this section, including sale, transfer, ex-  
25 change, or submission in satisfaction of a compliance  
26 obligation.

1 “(5) VEHICLE MANUFACTURER.—

2 “(A) IN GENERAL.—The term ‘vehicle  
3 manufacturer’ means an entity that—

4 “(i) engaged in the manufacturing of  
5 new passenger vehicles; and

6 “(ii) sold not fewer than 100 new pas-  
7 senger vehicles to ultimate purchasers, ei-  
8 ther directly or through an affiliate, such  
9 as a dealer.

10 “(B) EXCLUSIONS.—The term ‘vehicle  
11 manufacturer’ does not include—

12 “(i) a motor vehicle parts supplier; or

13 “(ii) a dealer.

14 “(6) ZERO-EMISSION VEHICLE.—The term  
15 ‘zero-emission vehicle’ means a passenger vehicle  
16 that produces zero exhaust emissions of any criteria  
17 pollutant, precursor pollutant, or greenhouse gas in  
18 any mode of operation or condition, as determined  
19 by the Administrator.

20 “(b) COMPLIANCE.—For calendar year 2030 and  
21 each calendar year thereafter, each vehicle manufacturer  
22 shall meet the requirements of subsections (c) and (d) by  
23 submitting to the Administrator, not later than April 1  
24 of the following calendar year, as applicable—

1           “(1) for a vehicle manufacturer that fails to  
 2           meet the minimum required percentage of new zero-  
 3           emission vehicle sales for the applicable calendar  
 4           year, as determined under subsection (c), a quantity  
 5           of zero-emission vehicle credits sufficient to offset  
 6           that excess, as determined by the Administrator; or

7           “(2) for a vehicle manufacturer that meets or  
 8           exceeds the minimum required percentage of new  
 9           zero-emission vehicle sales for the applicable cal-  
 10          endar year, as determined under subsection (c), a  
 11          certification of that compliance, as the Adminis-  
 12          trator determines to be appropriate.

13          “(c) MINIMUM REQUIRED ANNUAL PERCENTAGE OF  
 14          NEW ZERO-EMISSION VEHICLE SALES.—For calendar  
 15          years 2030 through 2040, in annual increments, the min-  
 16          imum annual percentage of the base quantity of new pas-  
 17          senger vehicle sales of a vehicle manufacturer that shall  
 18          be zero-emission vehicles, or otherwise credited towards  
 19          the percentage requirement pursuant to subsection (e),  
 20          shall be the applicable percentage specified in the following  
 21          table:

“Minimum Required Annual Percentage of New Zero-Emission  
 Vehicle Sales

Calendar Year	Percentage
2030 .....	50.0
2031 .....	55.0
2032 .....	60.0
2033 .....	65.0

“Minimum Required Annual Percentage of New Zero-Emission  
Vehicle Sales—Continued

Calendar Year	Percentage
2034 .....	70.0
2035 .....	75.0
2036 .....	80.0
2037 .....	85.0
2038 .....	90.0
2039 .....	95.0
2040 .....	100.0.

1       “(d) REQUIREMENT FOR 2040 AND THEREAFTER.—

2 For calendar year 2040 and each calendar year thereafter,  
3 a vehicle manufacturer shall sell only zero-emission vehi-  
4 cles.

5       “(e) ZERO-EMISSION VEHICLE CREDITS.—

6           “(1) IN GENERAL.—A vehicle manufacturer  
7 may satisfy the requirements of subsection (b)  
8 through the submission of zero-emission vehicle  
9 credits—

10           “(A) issued to the vehicle manufacturer  
11 under subsection (f); or

12           “(B) obtained by purchase, transfer, or ex-  
13 change under subsection (g).

14           “(2) LIMITATION.—A zero-emission vehicle  
15 credit may be counted toward compliance with sub-  
16 section (b) only once.

17       “(f) ISSUANCE OF ZERO-EMISSION VEHICLE CRED-  
18 ITS.—

1           “(1) IN GENERAL.—Not later than 2 years  
2 after the date of enactment of this section, the Ad-  
3 ministrator shall establish by rule a program—

4                   “(A) to verify and issue zero-emission vehi-  
5 cle credits to vehicle manufacturers;

6                   “(B) to track the sale, transfer, exchange,  
7 carry over, and retirement of zero-emission ve-  
8 hicle credits; and

9                   “(C) to enforce the requirements of this  
10 section.

11           “(2) APPLICATION.—

12                   “(A) IN GENERAL.—A vehicle manufac-  
13 turer that sold, either directly or through an af-  
14 filiate, such as a dealer, a new zero-emission ve-  
15 hicle or a qualified electric vehicle in the United  
16 States may apply to the Administrator for the  
17 issuance of a zero-emission vehicle credit.

18                   “(B) ELIGIBILITY.—To be eligible for the  
19 issuance of a zero-emission vehicle credit, a ve-  
20 hicle manufacturer shall demonstrate to the Ad-  
21 ministrator that the vehicle manufacturer sold 1  
22 or more zero-emission vehicles or qualified elec-  
23 tric vehicles in the previous calendar year.

24                   “(C) CONTENTS.—The application shall  
25 indicate—

1 “(i) the type of zero-emission vehicle  
2 or qualified electric vehicle that was sold;

3 “(ii) the State in which the zero-emis-  
4 sion vehicle or qualified electric vehicle was  
5 sold; and

6 “(iii) any other information deter-  
7 mined to be appropriate by the Adminis-  
8 trator.

9 “(D) AGGREGATION.—An application for a  
10 zero-emission vehicle credit under subparagraph  
11 (A) may aggregate information on all zero-emis-  
12 sion vehicles and qualified electric vehicles sold  
13 by the vehicle manufacturer in the applicable  
14 calendar year.

15 “(3) QUANTITY OF ZERO-EMISSION VEHICLE  
16 CREDITS.—

17 “(A) ZERO-EMISSION VEHICLES.—The Ad-  
18 ministrator shall issue to a vehicle manufac-  
19 turer the application under paragraph (2) of  
20 which is approved 1 zero-emission vehicle credit  
21 for each zero-emission vehicle sold in the United  
22 States.

23 “(B) QUALIFIED ELECTRIC VEHICLES.—  
24 For a qualified electric vehicle sold by a vehicle  
25 manufacturer the application under paragraph

1 (2) of which is approved, the Administrator  
2 shall issue a partial zero-emission vehicle credit  
3 based on the estimated proportion of the mile-  
4 age driven on the battery of the qualified elec-  
5 tric vehicle, as determined by the Adminis-  
6 trator.

7 “(C) FUEL-EFFICIENT VEHICLES.—The  
8 Administrator may issue a partial zero-emission  
9 vehicle credit for a passenger vehicle that con-  
10 sumes less gasoline, as compared to comparable  
11 passenger vehicles (as identified by the Admin-  
12 istrator), based on the estimated proportion of  
13 fuel savings, as determined by the Adminis-  
14 trator.

15 “(D) CREDIT BANKING.—A zero-emission  
16 vehicle credit issued for any calendar year that  
17 is not submitted to comply with the minimum  
18 annual percentage of new zero-emission vehicles  
19 requirement of subsection (c) during that cal-  
20 endar year may be carried forward for use pur-  
21 suant to subsection (b)(1) within the next 5  
22 years, but not later than 2040.

23 “(g) ZERO-EMISSION VEHICLE CREDIT TRADING.—

24 “(1) IN GENERAL.—A zero-emission vehicle  
25 credit for any calendar year before 2040 that is not



1 submitted to the Administrator to comply with the  
2 minimum annual percentage of new zero-emission  
3 vehicles requirement of subsection (c) for that cal-  
4 endar year may be sold, transferred, or exchanged  
5 by the vehicle manufacturer to which the credit is  
6 issued or by any other entity that acquires the zero-  
7 emission vehicle credit.

8 “(2) DELEGATION.—The Administrator may  
9 delegate to an appropriate market-making entity the  
10 administration of a national tradeable zero-emission  
11 vehicle credit market for purposes of creating a  
12 transparent national market for the sale or trade of  
13 zero-emission vehicle credits.

14 “(h) ZERO-EMISSION VEHICLE CREDIT RETIRE-  
15 MENT.—

16 “(1) IN GENERAL.—Any entity that obtains  
17 legal rights to a zero-emission vehicle credit may re-  
18 tire the zero-emission vehicle credit in any calendar  
19 year.

20 “(2) USE OF RETIRED ZERO-EMISSION VEHICLE  
21 CREDIT.—A zero-emission vehicle credit retired  
22 under paragraph (1) may not be used for compliance  
23 with subsection (b) in—

24 “(A) the calendar year in which the zero-  
25 emission vehicle credit is retired; or

1                   “(B) any subsequent calendar year.

2           “(i) INFORMATION COLLECTION.—The Adminis-  
3 trator may collect the information necessary to verify and  
4 audit—

5                   “(1) the annual sales of passenger vehicles of  
6 any vehicle manufacturer;

7                   “(2) a zero-emission vehicle credit submitted by  
8 a vehicle manufacturer pursuant to subsection  
9 (b)(1);

10                   “(3) the validity of a zero-emission vehicle cred-  
11 it submitted for compliance by a vehicle manufac-  
12 turer to the Administrator; and

13                   “(4) the quantity of passenger vehicle sales in  
14 the United States of all vehicle manufacturers.

15           “(j) STATE PROGRAMS.—

16                   “(1) IN GENERAL.—Nothing in this section  
17 shall preempt the authority of a State or political  
18 subdivision of a State to adopt or enforce any law  
19 (including regulations) relating to motor vehicles, in-  
20 cluding the authority to set standards for motor ve-  
21 hicle emissions and zero-emission vehicle require-  
22 ments under section 177 and section 209.

23                   “(2) COMPLIANCE WITH SECTION.—No law or  
24 regulation of a State or political subdivision of a  
25 State shall relieve any vehicle manufacturer from

1 compliance with any requirement otherwise applica-  
2 ble under this section.

3 “(k) REGULATIONS.—Not later than 1 year after the  
4 date of enactment of this section, the Administrator shall  
5 promulgate regulations to implement this section.

6 “(l) ENFORCEMENT.—

7 “(1) CIVIL PENALTY.—

8 “(A) IN GENERAL.—A vehicle manufac-  
9 turer that fails to comply with subsection (b)  
10 shall be liable for a civil penalty, assessed by  
11 the Administrator, in an amount that is equal  
12 to twice the average value of the aggregate  
13 quantity of zero-emission vehicle credits that  
14 the vehicle manufacturer failed to submit in vio-  
15 lation of that subsection, as determined by the  
16 Administrator.

17 “(B) ENFORCEMENT.—The Administrator  
18 shall assess any civil penalty under subpara-  
19 graph (A).

20 “(C) DEPOSIT.—With respect to any civil  
21 penalty paid to the Administrator pursuant to  
22 subparagraph (A), the Administrator shall de-  
23 posit the amount into the Highway Trust Fund  
24 established by section 9503(a) of the Internal  
25 Revenue Code of 1986.

1           “(2) INJUNCTION.—After calendar year 2040,  
2           the Administrator may issue an injunction on the  
3           manufacture of any passenger vehicles other than  
4           zero-emission vehicles by a vehicle manufacturer.”.

5           (b) TABLE OF CONTENTS AMENDMENT.—The table  
6           of contents of the Clean Air Act (42 U.S.C. prec. 7401)  
7           is amended by adding at the end of the items relating to  
8           part A of title II the following:

“Sec. 220. National zero-emission vehicle standard.”.

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