

118TH CONGRESS
2D SESSION

S. 3845

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 29, 2024

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

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 2024” or the “ZEVs Act of 2024”.

6 **SEC. 2. FINDINGS.**

7 (a) DEFINITIONS.—In this section:

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

1 (2) ZERO-EMISSION VEHICLE.—The term “zero-
2 emission vehicle” has the meaning given the term in
3 section 220 of the Clean Air Act.

4 (b) FINDINGS.—Congress finds that—

5 (1) zero-emission vehicles offer a multitude of
6 benefits for the people of the United States, includ-
7 ing—

8 (A) eliminating soot and smog emissions
9 that, as of the date of enactment of this Act,
10 cause thousands of premature deaths and mil-
11 lions of serious illnesses every year;

12 (B) reducing climate-destabilizing pollution
13 from the transportation sector, the largest
14 sources of greenhouse gas emissions in the
15 United States; and

16 (C) creating new economic opportunities
17 throughout the economy of the United States;

18 (2) the vehicle emissions standards of the Envi-
19 ronmental Protection Agency, adopted pursuant to
20 section 202(a) of the Clean Air Act (42 U.S.C.
21 7521(a)), are important means of promoting cleaner
22 motor vehicle technologies, including zero-emission
23 technologies, but continuing public health and cli-
24 mate hazards and the increasing availability of zero-
25 emission vehicle technologies require a more rapid

1 dissemination of zero-emission vehicles beginning in
2 model year 2027;

3 (3) binding statutory requirements with respect
4 to sales of zero-emission vehicles will—

5 (A) promote the further growth of clean
6 vehicle technologies;

7 (B) create certainty for consumers and in-
8 dustry; and

9 (C) provide a sound basis for zero-emission
10 vehicle infrastructure planning and investment;
11 and

12 (4) because emissions standards pursuant to
13 section 202(a) of the Clean Air Act (42 U.S.C.
14 7521(a)) specify emissions standards are to be based
15 on the consideration of the Administrator of avail-
16 able technologies to prevent or control emissions of
17 air pollutants without requiring particular means of
18 compliance with those standards, the substantial
19 support of Congress for zero-emission vehicle tech-
20 nologies and infrastructure, including in the Infra-
21 structure Investment and Jobs Act (Public Law
22 117–58; 135 Stat. 429) and Public Law 117–169
23 (136 Stat. 1818) (commonly referred to as the “In-
24 flation Reduction Act of 2022”), makes it appro-
25 priate for Congress to require that manufacturers

1 meet specific targets of zero-emission vehicles as re-
2 quired under this Act and the amendments made by
3 this Act.

4 **SEC. 3. NATIONAL ZERO-EMISSION VEHICLE STANDARD.**

5 Part A of title II of the Clean Air Act (42 U.S.C.
6 7521 et seq.) is amended by adding at the end the fol-
7 lowing:

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

9 “(a) DEFINITIONS.—In this section:

10 “(1) BASE QUANTITY OF NEW PASSENGER VE-
11 HICLES.—The term ‘base quantity of new passenger
12 vehicles’ means the total quantity of new passenger
13 vehicles delivered for sale by a vehicle manufacturer
14 during the most recent model year.

15 “(2) PASSENGER VEHICLE.—The term ‘pas-
16 senger vehicle’ has the meaning given the term ‘pas-
17 senger motor vehicle’ in section 32101 of title 49,
18 United States Code.

19 “(3) QUALIFIED ELECTRIC VEHICLE.—The
20 term ‘qualified electric vehicle’ means a passenger
21 vehicle that is—

22 “(A) a new clean vehicle (as defined in sec-
23 tion 30D(d) of the Internal Revenue Code of
24 1986); or

1 “(B) a new qualified fuel cell motor vehicle
2 (as defined in section 30B(b)(3) of the Internal
3 Revenue Code of 1986).

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

10 “(5) VEHICLE MANUFACTURER.—

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

13 “(i) engaged in the manufacturing of
14 new passenger vehicles; and

15 “(ii) sold not fewer than 100 new pas-
16 senger vehicles to ultimate purchasers in
17 the United States within the current or
18 previous calendar year, either directly or
19 through an affiliate, such as a dealer.

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

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

23 “(ii) a dealer.

24 “(6) ZERO-EMISSION VEHICLE.—The term
25 ‘zero-emission vehicle’ means a passenger vehicle

1 that produces zero exhaust emissions of any criteria
2 pollutant, precursor pollutant, or greenhouse gas,
3 other than water vapor, in any mode of operation or
4 condition, as determined by the Administrator.

5 “(b) COMPLIANCE.—For model year 2027 and each
6 model year thereafter, each vehicle manufacturer shall
7 meet the requirements of subsections (c) and (d) by sub-
8 mitting to the Administrator, not later than April 1 of
9 the following calendar year, as applicable—

10 “(1) for a vehicle manufacturer that fails to
11 meet the minimum required percentage of zero-emis-
12 sion vehicle sales for the applicable model year, as
13 determined under subsection (c), a quantity of zero-
14 emission vehicle credits sufficient to offset that ex-
15 cess, as determined by the Administrator; or

16 “(2) for a vehicle manufacturer that meets or
17 exceeds the minimum required percentage of zero-
18 emission vehicle sales for the applicable model year,
19 as determined under subsection (c), a certification of
20 that compliance, as the Administrator determines to
21 be appropriate.

22 “(c) MINIMUM REQUIRED ANNUAL PERCENTAGE OF
23 ZERO-EMISSION VEHICLE CREDITS.—For model years
24 2027 through 2035, in annual increments, the minimum
25 annual percentage of the base quantity of new passenger

1 vehicles of a vehicle manufacturer delivered for sale that
 2 are equivalent to zero-emission vehicles, based on the
 3 issuance of zero-emission vehicle credits, shall be the appli-
 4 cable percentage specified in the following table:

“Minimum Required Annual Percentage of Zero-Emission Vehicle Credits

Model Year	Percentage
2027	43.0
2028	51.0
2029	59.0
2030	68.0
2031	76.0
2032	82.0
2033	88.0
2034	94.0
2035	100.0.

5 “(d) REQUIREMENT FOR 2035 AND THEREAFTER.—
 6 For model year 2035 and each model year thereafter, a
 7 vehicle manufacturer shall sell only zero-emission vehicles.

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

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

13 “(A) issued to the vehicle manufacturer
 14 under subsection (f); or

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

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

4 “(f) ISSUANCE OF ZERO-EMISSION VEHICLE CRED-
5 ITS.—

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

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

11 “(B) to track the sale, transfer, exchange,
12 carry over, and retirement of zero-emission ve-
13 hicle credits; and

14 “(C) to enforce the requirements of this
15 section.

16 “(2) APPLICATION.—

17 “(A) IN GENERAL.—A vehicle manufac-
18 turer that delivered for sale, either directly or
19 through an affiliate, such as a dealer, a new
20 zero-emission vehicle or a qualified electric vehi-
21 cle in the United States may apply to the Ad-
22 ministrators for the issuance of a zero-emission
23 vehicle credit.

24 “(B) ELIGIBILITY.—To be eligible for the
25 issuance of a zero-emission vehicle credit, a ve-

1 hicle manufacturer shall demonstrate to the Ad-
2 ministrators that the vehicle manufacturer deliv-
3 ered for sale 1 or more zero-emission vehicles or
4 qualified electric vehicles in the previous model
5 year.

6 “(C) CONTENTS.—The application shall
7 indicate—

8 “(i) the type of zero-emission vehicle
9 or qualified electric vehicle that was deliv-
10 ered for sale;

11 “(ii) the State in which the zero-emis-
12 sion vehicle or qualified electric vehicle was
13 delivered for sale; and

14 “(iii) any other information deter-
15 mined to be appropriate by the Adminis-
16 trator.

17 “(D) AGGREGATION.—An application for a
18 zero-emission vehicle credit under subparagraph
19 (A) may aggregate information on all zero-emis-
20 sion vehicles and qualified electric vehicles deliv-
21 ered for sale by the vehicle manufacturer in the
22 applicable model year.

23 “(3) QUANTITY OF ZERO-EMISSION VEHICLE
24 CREDITS.—

1 “(A) ZERO-EMISSION VEHICLES.—The Ad-
2 ministrators shall issue to a vehicle manufac-
3 turer the application under paragraph (2) of
4 which is approved 1 zero-emission vehicle credit
5 for each zero-emission vehicle delivered for sale
6 in the United States.

7 “(B) QUALIFIED ELECTRIC VEHICLES.—
8 For a qualified electric vehicle delivered for sale
9 by a vehicle manufacturer the application under
10 paragraph (2) of which is approved, the Admin-
11 istrator shall issue a partial zero-emission vehi-
12 cle credit based on the estimated proportion of
13 the mileage driven—

14 “(i) with respect to a qualified electric
15 vehicle described in subsection (a)(3)(A),
16 on the battery of the qualified electric vehi-
17 cle, as determined by the Administrator;
18 and

19 “(ii) with respect to a qualified elec-
20 tric vehicle described in subsection
21 (a)(3)(B), on hydrogen that is produced
22 through a process that results in a lifecycle
23 greenhouse gas emissions (as defined in
24 section 45V(c) of the Internal Revenue
25 Code of 1986) rate of less than 0.45 kilo-

1 grams of carbon dioxide-equivalent per
2 kilogram of hydrogen, as determined by
3 the Administrator.

4 “(C) CREDIT BANKING.—A zero-emission
5 vehicle credit issued for any model year that is
6 not submitted to comply with the minimum an-
7 nual percentage of zero-emission vehicles under
8 subsection (c) during that model year may be
9 carried forward for use pursuant to subsection
10 (b)(1) within the next 5 years, but not later
11 than model year 2035.

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

13 “(1) IN GENERAL.—A zero-emission vehicle
14 credit for any model year before 2035 that is not
15 submitted to the Administrator to comply with the
16 minimum annual percentage of zero-emission vehi-
17 cles under subsection (c) for that model year may be
18 sold, transferred, or exchanged by the vehicle manu-
19 facturer to which the credit is issued or by any other
20 entity that acquires the zero-emission vehicle credit.

21 “(2) DELEGATION.—

22 “(A) IN GENERAL.—The Administrator
23 may delegate to an appropriate market-making
24 entity the administration of a national tradeable
25 zero-emission vehicle credit market for purposes

1 of creating a transparent national market for
2 the sale or trade of zero-emission vehicle cred-
3 its.

4 “(B) PUBLIC REPORT.—If the Adminis-
5 trator makes a delegation under subparagraph
6 (A), the entity to which the Administrator made
7 the delegation shall annually submit to Con-
8 gress and make available to the public a report
9 describing the status of the zero-emission vehi-
10 cle credit market.

11 “(h) ZERO-EMISSION VEHICLE CREDIT RETIRE-
12 MENT.—

13 “(1) IN GENERAL.—Any entity that obtains
14 legal rights to a zero-emission vehicle credit may re-
15 tire the zero-emission vehicle credit in any model
16 year.

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

21 “(A) the model year in which the zero-
22 emission vehicle credit is retired; or

23 “(B) any subsequent model year.

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

4 “(1) the model year sales of passenger vehicles
5 of any vehicle manufacturer;

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

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

12 “(4) the quantity of passenger vehicles delivered
13 for sale in the United States of all vehicle manufac-
14 turers.

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) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that vehicle manufacturers should diversify vehicle
5 technologies and models to ensure consumer choice and
6 access.

7 “(l) REGULATIONS.—Not later than 540 days after
8 the date of enactment of this section, the Administrator
9 shall promulgate regulations to implement this section.

10 “(m) ENFORCEMENT.—

11 “(1) CIVIL PENALTY.—

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

21 “(B) ENFORCEMENT.—The Administrator
22 shall assess any civil penalty under subpara-
23 graph (A).

24 “(C) DEPOSIT.—With respect to any civil
25 penalty paid to the Administrator pursuant to

1 subparagraph (A), the Administrator shall de-
2 posit the amount into the Highway Trust Fund
3 established by section 9503(a) of the Internal
4 Revenue Code of 1986.

5 “(2) INJUNCTION.—After model year 2035, the
6 Administrator shall issue an injunction on the manu-
7 facture of any passenger vehicles other than zero-
8 emission vehicles by a vehicle manufacturer.”.

9 **SEC. 4. CONGRESSIONAL INTENT.**

10 Nothing in this Act or an amendment made by this
11 Act—

12 (1) is intended as a statement of congressional
13 intent with respect to the authority of the President
14 or any Federal agency under the Clean Air Act (42
15 U.S.C. 7401 et seq.);

16 (2) preempts the ability of the Administrator of
17 the Environmental Protection Agency under part A
18 of title II of the Clean Air Act (42 U.S.C. 7521 et
19 seq.) to promulgate standards applicable to the emis-
20 sion of any air pollutant from any class or classes
21 of new motor vehicles or new motor vehicle engines
22 which, in the judgment of the Administrator of the
23 Environmental Protection Agency, causes, or con-
24 tributes to, air pollution; or

1 (3) precludes the Administrator of the Environ-
2 mental Protection Agency from considering, or re-
3 duces the obligations of the Administrator of the
4 Environmental Protection Agency to consider, all
5 available technologies, including zero-emission tech-
6 nologies, in prescribing the standards required pur-
7 suant to section 202(a) of the Clean Air Act (42
8 U.S.C. 7521(a)).

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