

117TH CONGRESS
2D SESSION

S. _____

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

Mr. MERKLEY (for himself and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on _____

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 2022” or the “ZEVs Act of 2022”.

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

7 Part A of title II of the Clean Air Act (42 U.S.C.
8 7521 et seq.) is amended by adding at the end the fol-
9 lowing:

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

2 “(a) DEFINITIONS.—In this section:

3 “(1) BASE QUANTITY OF NEW PASSENGER VE-
4 HICLES.—The term ‘base quantity of new passenger
5 vehicles’ means the total quantity of new passenger
6 vehicles delivered for sale by a vehicle manufacturer
7 during the most recent model 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 clean vehicle (as defined in sec-
16 tion 30D(d) of the Internal Revenue Code of
17 1986); or

18 “(B) a new qualified fuel cell motor vehicle
19 (as defined in section 30B(b)(3) of the Internal
20 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 in
8 the United States within the current or
9 previous calendar year, either directly or
10 through an affiliate, such as a dealer.

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

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

14 “(ii) a dealer.

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

21 “(b) COMPLIANCE.—For model year 2026 and each
22 model year thereafter, each vehicle manufacturer shall
23 meet the requirements of subsections (c) and (d) by sub-
24 mitting to the Administrator, not later than April 1 of
25 the following calendar year, as applicable—

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

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

13 “(c) MINIMUM REQUIRED ANNUAL PERCENTAGE OF
 14 ZERO-EMISSION VEHICLE CREDITS.—For model years
 15 2026 through 2035, in annual increments, the minimum
 16 annual percentage of the base quantity of new passenger
 17 vehicles of a vehicle manufacturer delivered for sale that
 18 are equivalent to zero-emission vehicles, based on the
 19 issuance of zero-emission vehicle credits, shall be the appli-
 20 cable percentage specified in the following table:

“Minimum Required Annual Percentage of Zero-Emission Vehicle Credits

Model Year	Percentage
2026	35.0
2027	43.0
2028	51.0
2029	59.0
2030	68.0
2031	76.0
2032	82.0

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

Model Year	Percentage
2033	88.0
2034	94.0
2035	100.0.

1 “(d) REQUIREMENT FOR 2035 AND THEREAFTER.—

2 For model year 2035 and each model year thereafter, a
 3 vehicle manufacturer shall sell only zero-emission vehicles.

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

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

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

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

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

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

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

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

3 “(B) to track the sale, transfer, exchange,
4 carry over, and retirement of zero-emission ve-
5 hicle credits; and

6 “(C) to enforce the requirements of this
7 section.

8 “(2) APPLICATION.—

9 “(A) IN GENERAL.—A vehicle manufac-
10 turer that delivered for sale, either directly or
11 through an affiliate, such as a dealer, a new
12 zero-emission vehicle or a qualified electric vehi-
13 cle in the United States may apply to the Ad-
14 ministrator for the issuance of a zero-emission
15 vehicle credit.

16 “(B) ELIGIBILITY.—To be eligible for the
17 issuance of a zero-emission vehicle credit, a ve-
18 hicle manufacturer shall demonstrate to the Ad-
19 ministrator that the vehicle manufacturer deliv-
20 ered for sale 1 or more zero-emission vehicles or
21 qualified electric vehicles in the previous model
22 year.

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

1 “(i) the type of zero-emission vehicle
2 or qualified electric vehicle that was deliv-
3 ered for sale;

4 “(ii) the State in which the zero-emis-
5 sion vehicle or qualified electric vehicle was
6 delivered for sale; and

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

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

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

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

24 “(B) QUALIFIED ELECTRIC VEHICLES.—
25 For a qualified electric vehicle delivered for sale

1 by a vehicle manufacturer the application under
2 paragraph (2) of which is approved, the Admin-
3 istrator shall issue a partial zero-emission vehi-
4 cle credit based on the estimated proportion of
5 the mileage driven—

6 “(i) with respect to a qualified electric
7 vehicle described in subsection (a)(3)(A),
8 on the battery of the qualified electric vehi-
9 cle, as determined by the Administrator;
10 and

11 “(ii) with respect to a qualified elec-
12 tric vehicle described in subsection
13 (a)(3)(B), on hydrogen that is produced
14 through a process that results in a lifecycle
15 greenhouse gas emissions (as defined in
16 section 45V(c) of the Internal Revenue
17 Code of 1986) rate of less than 0.45 kilo-
18 grams of carbon dioxide-equivalent per
19 kilogram of hydrogen, as determined by
20 the Administrator.

21 “(C) CREDIT BANKING.—A zero-emission
22 vehicle credit issued for any model year that is
23 not submitted to comply with the minimum an-
24 nual percentage of zero-emission vehicles under
25 subsection (c) during that model year may be

1 carried forward for use pursuant to subsection
2 (b)(1) within the next 5 years, but not later
3 than model year 2035.

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

5 “(1) IN GENERAL.—A zero-emission vehicle
6 credit for any model year before 2035 that is not
7 submitted to the Administrator to comply with the
8 minimum annual percentage of zero-emission vehi-
9 cles under subsection (c) for that model year may be
10 sold, transferred, or exchanged by the vehicle manu-
11 facturer to which the credit is issued or by any other
12 entity that acquires the zero-emission vehicle credit.

13 “(2) DELEGATION.—

14 “(A) IN GENERAL.—The Administrator
15 may delegate to an appropriate market-making
16 entity the administration of a national tradeable
17 zero-emission vehicle credit market for purposes
18 of creating a transparent national market for
19 the sale or trade of zero-emission vehicle cred-
20 its.

21 “(B) PUBLIC REPORT.—If the Adminis-
22 trator makes a delegation under subparagraph
23 (A), the entity to which the Administrator made
24 the delegation shall annually submit to Con-
25 gress and make available to the public a report

1 describing the status of the zero-emission vehi-
2 cle credit market.

3 “(h) ZERO-EMISSION VEHICLE CREDIT RETIRE-
4 MENT.—

5 “(1) IN GENERAL.—Any entity that obtains
6 legal rights to a zero-emission vehicle credit may re-
7 tire the zero-emission vehicle credit in any model
8 year.

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

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

15 “(B) any subsequent model year.

16 “(i) INFORMATION COLLECTION.—The Adminis-
17 trator may collect the information necessary to verify and
18 audit—

19 “(1) the model year sales of passenger vehicles
20 of any vehicle manufacturer;

21 “(2) a zero-emission vehicle credit submitted by
22 a vehicle manufacturer pursuant to subsection
23 (b)(1);

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

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

7 “(j) STATE PROGRAMS.—

8 “(1) IN GENERAL.—Nothing in this section
9 shall preempt the authority of a State or political
10 subdivision of a State to adopt or enforce any law
11 (including regulations) relating to motor vehicles, in-
12 cluding the authority to set standards for motor ve-
13 hicle emissions and zero-emission vehicle require-
14 ments under section 177 and section 209.

15 “(2) COMPLIANCE WITH SECTION.—No law or
16 regulation of a State or political subdivision of a
17 State shall relieve any vehicle manufacturer from
18 compliance with any requirement otherwise applica-
19 ble under this section.

20 “(k) SENSE OF CONGRESS.—It is the sense of Con-
21 gress that vehicle manufacturers should diversify vehicle
22 technologies and models to ensure consumer choice and
23 access.

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

4 “(m) ENFORCEMENT.—

5 “(1) CIVIL PENALTY.—

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

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

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

24 “(2) INJUNCTION.—After model year 2035, the
25 Administrator shall issue an injunction on the manu-

- 1 facture of any passenger vehicles other than zero-
- 2 emission vehicles by a vehicle manufacturer.”.