

**Calendar No. 861**110TH CONGRESS  
2D SESSION**S. 2555****[Report No. 110-407]**

To permit California and other States to effectively control greenhouse gas emissions from motor vehicles, and for other purposes.

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**IN THE SENATE OF THE UNITED STATES**

JANUARY 24, 2008

Mrs. BOXER (for herself, Mrs. FEINSTEIN, Mr. LIEBERMAN, Mr. LAUTENBERG, Mr. CARDIN, Mr. WHITEHOUSE, Mr. SANDERS, Mrs. CLINTON, Mr. LEAHY, Mr. KERRY, Mr. OBAMA, Mr. NELSON of Florida, Mr. DODD, Mr. KENNEDY, Ms. MIKULSKI, Ms. COLLINS, Ms. SNOWE, Mr. MENENDEZ, Mr. SCHUMER, Mr. REED, Ms. KLOBUCHAR, Mr. BIDEN, Mr. DURBIN, Mr. WYDEN, Mrs. MURRAY, Ms. CANTWELL, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JUNE 27, 2008

Reported by Mrs. BOXER, without amendment

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**A BILL**

To permit California and other States to effectively control greenhouse gas emissions from motor vehicles, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Reducing Global  
3 Warming Pollution from Vehicles Act of 2008”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

6 (1) the State of California has regulated motor  
7 vehicle air emissions more stringently than the Fed-  
8 eral Government for more than 40 years;

9 (2) in recognition of the pioneering role of the  
10 State in protecting public health and welfare from  
11 motor vehicle emissions, Congress enacted section  
12 209(b) of the Clean Air Act (42 U.S.C. 7543(b))  
13 that allows the Administrator of the Environmental  
14 Protection Agency (referred to in this Act as the  
15 “Administrator”) to waive Federal preemption of  
16 motor vehicle standards established by the State;

17 (3) on December 21, 2005, the State requested  
18 a waiver of preemption under that Act for the regu-  
19 lation of the State to control greenhouse gas emis-  
20 sions from motor vehicles;

21 (4) the regulation of the State requires a reduc-  
22 tion in the emissions of greenhouse gases from cars  
23 and light trucks sold in the State;

24 (5) once a waiver is granted to the State of  
25 California for that regulation, other States may

1 adopt the vehicle emission standards established by  
2 the State of California;

3 (6) as of the date of introduction of this Act—

4 (A) 14 other States have adopted or are  
5 adopting the California standards, including Ar-  
6 izona, Connecticut, Florida, Maine, Maryland,  
7 Massachusetts, New Jersey, New Mexico, New  
8 York, Oregon, Pennsylvania, Rhode Island,  
9 Vermont, and Washington;

10 (B) at least 4 additional States are moving  
11 toward adopting the California standards, in-  
12 cluding Colorado, Delaware, Illinois, and Utah;  
13 and

14 (C) taken together, those 19 States rep-  
15 resent more than half of the population of the  
16 United States;

17 (7) the comments submitted to the Adminis-  
18 trator overwhelmingly supported the request of the  
19 State of California for a waiver;

20 (8) according to legal papers filed by the Cali-  
21 fornia Attorney General, of the approximately  
22 98,000 comments in the docket of the Environ-  
23 mental Protection Agency, docket, more than 99.9  
24 percent supported the petition of the State;

1 (9) notwithstanding that support, on December  
2 19, 2007, Administrator Stephen Johnson took the  
3 extraordinary step of denying the request of the  
4 State, dated December 21, 2005, for the waiver;

5 (10) the flat denial by the Administrator of the  
6 waiver request was unprecedented;

7 (11) according to the Congressional Research  
8 Service, the State of California has requested waiv-  
9 ers of preemption under section 209(b) of the Clean  
10 Air Act (42 U.S.C. 7543(b)) for vehicle emission  
11 standards more than 50 times since that provision  
12 was enacted, and the Administrator has never out-  
13 right denied such a request, but instead always  
14 granted the requests, in whole or in part;

15 (12) the denial of the Administrator of the  
16 waiver reportedly overrode the overwhelming evi-  
17 dence presented by the technical and legal staff of  
18 the Environmental Protection Agency;

19 (13) the Administrator sought to justify the de-  
20 nial of the waiver by arguing that the waiver would  
21 create a “confusing patchwork” of State regulations;

22 (14) in fact, no such patchwork would result  
23 from the granting of the waiver because, under the  
24 Clean Air Act (42 U.S.C. 6401 et seq.), if the waiver  
25 were granted, there would continue to be 2 stand-

1 ards for vehicles, as there have been for 30 years—  
2 a weaker Federal standard, and a more stringent  
3 California standard adopted by many States across  
4 the United States;

5 (15) the benefits of permitting the State of  
6 California to establish more stringent vehicle stand-  
7 ards, which are subsequently adopted by other  
8 States, are well documented;

9 (16) the National Academy of Sciences found in  
10 2006 that in “forcing technology development, Cali-  
11 fornia has been a laboratory for emissions-control in-  
12 novations. . . . The original reasons for which Con-  
13 gress authorized California to have a separate set of  
14 standards remain valid. . . . California should con-  
15 tinue its pioneering role in setting mobile-source  
16 emissions standards. The role will aid the State’s ef-  
17 forts to achieve air quality goals and will allow it to  
18 continue to be a proving ground for new emissions-  
19 control technologies that benefit California and the  
20 rest of the Nation.”;

21 (17) the Administrator also sought to justify  
22 the denial of the waiver by arguing that the national  
23 fuel economy standards for vehicles enacted by the  
24 Energy Independence and Security Act of 2007

1 (Public Law 110–140) would be “more effective” at  
2 reducing emissions than the California standards;

3 (18) however, an analysis by the California Air  
4 Resources Board shows that the California stand-  
5 ards, once fully adopted, would result, by 2020, in  
6 approximately twice as large a cumulative reduction  
7 of carbon dioxide emissions in California as, and  
8 more than an 80 percent greater reduction in carbon  
9 dioxide emissions nationally than, would be achieved  
10 under the Federal program;

11 (19) the argument of the Administrator that  
12 national fuel economy standards eliminate the need  
13 for vehicle greenhouse gas emission controls also  
14 runs counter to the analysis of the Supreme Court  
15 in the landmark April 2007 decision of *Massachu-*  
16 *setts v. Environmental Protection Agency* (127 S.  
17 Ct. 1438), in which the Supreme Court—

18 (A) rejected the argument of the Adminis-  
19 trator that the authority of the Department of  
20 Transportation to regulate vehicle fuel effi-  
21 ciency undercuts the authority of the Adminis-  
22 trator to regulate greenhouse gases from vehi-  
23 cles; and

24 (B) noted that the fact “that DOT [the  
25 Department of Transportation] sets mileage

1 standards in no way licenses EPA [the Environ-  
2 mental Protection Agency] to shirk its environ-  
3 mental responsibilities. EPA has been charged  
4 with protecting the public’s ‘health’ and ‘wel-  
5 fare,’ . . . a statutory obligation wholly inde-  
6 pendent of DOT’s mandate to promote energy  
7 efficiency . . . The two obligations may overlap,  
8 but there is no reason to think the two agencies  
9 cannot both administer their obligations and yet  
10 avoid inconsistency.”; and

11 (20) it is the sense of Congress that the denial  
12 by the Administrator of the request by the State of  
13 California for the waiver is not supported by science,  
14 precedent, or applicable law.

15 (b) PURPOSES.—The purposes of this Act are—

16 (1) to permit the State of California and other  
17 States to immediately proceed under the regulation  
18 of the State of California to control greenhouse gas  
19 emissions from motor vehicles, rather than forcing  
20 the States to litigate for what could be several years  
21 to vindicate their rights, while climate change con-  
22 tinues to threaten public health and the environ-  
23 ment; and

24 (2) to provide certainty to automakers, the  
25 States, and the public about future regulatory re-

1 requirements for greenhouse gas emissions from motor  
2 vehicles.

3 **SEC. 3. WAIVER OF PREEMPTION FOR CALIFORNIA GREEN-**  
4 **HOUSE GAS EMISSION REGULATION FOR VE-**  
5 **HICLES.**

6 Section 209 of the Clean Air Act (42 U.S.C. 7543)  
7 is amended by adding at the end the following:

8 “(f) **WAIVER.**—Notwithstanding subsection (b) or  
9 any other provision of law, the application for a waiver  
10 of preemption dated December 21, 2005, submitted to the  
11 Administrator pursuant to subsection (b) by the State of  
12 California for the regulation of that State to control green-  
13 house gas emissions from motor vehicles shall be consid-  
14 ered to be approved.”.





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