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S. 2555

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

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reducing Global Warming Pollution from Vehicles Act of 2008''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the State of California has regulated motor vehicle air emissions more stringently than the Federal Government for more than 40 years;

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

(3) on December 21, 2005, the State requested a waiver of preemption under that Act for the regulation of the State to control greenhouse gas emissions from motor vehicles;

(4) the regulation of the State requires a reduction in the emissions of greenhouse gases from cars and light trucks sold in the State;

(5) once a waiver is granted to the State of California for that regulation, other States may adopt the vehicle emission standards established by the State of California;

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

(A) 14 other States have adopted or are adopting the California standards, including Ar-

izona, Connecticut, Florida, Maine, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington;

(B) at least 4 additional States are moving toward adopting the California standards, including Colorado, Delaware, Illinois, and Utah; and

(C) taken together, those 19 States represent more than half of the population of the United States;

(7) the comments submitted to the Administrator overwhelmingly supported the request of the State of California for a waiver;

(8) according to legal papers filed by the California Attorney General, of the approximately 98,000 comments in the docket of the Environmental Protection Agency, docket, more than 99.9 percent supported the petition of the State;

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

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

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

(12) the denial of the Administrator of the waiver reportedly overrode the overwhelming evidence presented by the technical and legal staff of the Environmental Protection Agency;

(13) the Administrator sought to justify the denial of the waiver by arguing that the waiver would create a ''confusing patchwork'' of State regulations;

(14) in fact, no such patchwork would result from the granting of the waiver because, under the Clean Air Act (42 U.S.C. 6401 et seq.), if the waiver were granted, there would continue to be 2 standards for vehicles, as there have been for 30 years—a weaker Federal standard, and a more stringent California standard adopted by many States across the United States;

(15) the benefits of permitting the State of California to establish more stringent vehicle stand-

ards, which are subsequently adopted by other States, are well documented;

(16) the National Academy of Sciences found in 2006 that in ''forcing technology development, California has been a laboratory for emissions-control innovations. . . . The original reasons for which Congress authorized California to have a separate set of standards remain valid. . . . California should continue its pioneering role in setting mobile-source emissions standards. The role will aid the State's efforts to achieve air quality goals and will allow it to continue to be a proving ground for new emissions-control technologies that benefit California and the rest of the Nation.'';

(17) the Administrator also sought to justify the denial of the waiver by arguing that the national fuel economy standards for vehicles enacted by the Energy Independence and Security Act of 2007 (Public Law 110–140) would be ''more effective'' at reducing emissions than the California standards;

(18) however, an analysis by the California Air Resources Board shows that the California standards, once fully adopted, would result, by 2020, in approximately twice as large a cumulative reduction of carbon dioxide emissions in California as, and

more than an 80 percent greater reduction in carbon dioxide emissions nationally than, would be achieved under the Federal program;

(19) the argument of the Administrator that national fuel economy standards eliminate the need for vehicle greenhouse gas emission controls also runs counter to the analysis of the Supreme Court in the landmark April 2007 decision of Massachusetts v. Environmental Protection Agency (127 S. Ct. 1438), in which the Supreme Court—

(A) rejected the argument of the Administrator that the authority of the Department of Transportation to regulate vehicle fuel efficiency undercuts the authority of the Administrator to regulate greenhouse gases from vehicles; and

(B) noted that the fact ''that DOT [the Department of Transportation] sets mileage standards in no way licenses EPA [the Environmental Protection Agency] to shirk its environmental responsibilities. EPA has been charged with protecting the public's 'health' and 'welfare,' ... a statutory obligation wholly independent of DOT's mandate to promote energy efficiency ... The two obligations may overlap,

but there is no reason to think the two agencies cannot both administer their obligations and yet avoid inconsistency.''; and

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

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

(1) to permit the State of California and other States to immediately proceed under the regulation of the State of California to control greenhouse gas emissions from motor vehicles, rather than forcing the States to litigate for what could be several years to vindicate their rights, while climate change continues to threaten public health and the environment; and

(2) to provide certainty to automakers, the States, and the public about future regulatory requirements for greenhouse gas emissions from motor vehicles.

SEC. 3. WAIVER OF PREEMPTION FOR CALIFORNIA GREENHOUSE GAS EMISSION REGULATION FOR VEHICLES.

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

"(f) WAIVER.—Notwithstanding subsection (b) or any other provision of law, the application for a waiver of preemption dated December 21, 2005, submitted to the Administrator pursuant to subsection (b) by the State of California for the regulation of that State to control greenhouse gas emissions from motor vehicles shall be considered to be approved.".

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