

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. R. No. 454

Senator Roegner

A RESOLUTION

To respectfully urge Congress and President Donald 1
Trump to amend the Federal Clean Air Act to 2
eliminate the requirement to implement the E- 3
Check Program and direct the Administrator of 4
USEPA to begin new rule-making procedures under 5
the Administrative Procedures Act to repeal and 6
replace the 2015 National Ambient Air Quality 7
Standards; to respectfully urge Congress and 8
President Donald Trump to pass legislation to 9
achieve improvements in air quality more 10
efficiently while allowing companies to innovate 11
and help the economy grow; to urge the 12
Administrator of USEPA to alleviate burdensome 13
requirements of the E-Check Program and the Clean 14
Air Act if Congress and the President fail to 15
act; and to encourage OEPA to explore 16
alternatives to E-Check in Ohio. 17

BE IT RESOLVED BY THE SENATE OF THE STATE OF OHIO:

WHEREAS, The E-Check Program administered by the Ohio 18
Environmental Protection Agency (OEPA) imposes burdensome and 19
costly motor vehicle emissions testing requirements on the 20
citizenry of Northeast Ohio and wastes Ohio's valuable tax 21
dollars; and 22

WHEREAS, The E-Check Program has a disproportionate impact on poor and lower and middle class citizens because such citizens are more likely to own older motor vehicles that are subject to the E-Check Program, and those vehicles are more likely to fail an emissions test under the Program. In many cases, a vehicle that is subject to the E-Check Program is the only mode of transportation available to an individual and is vital for maintaining employment, making doctor visits, purchasing food and other necessities, and living a stable and normal life; and

WHEREAS, E-Check inspectors indicate that older vehicles function well and produce minimal pollution but, nonetheless, fail E-Check emissions tests. Often, this is due to antiquated on-board computers that malfunction more frequently. Thus, in such cases, E-Check results in eliminating an individual's only mode of transportation simply because of an inconsequential computer malfunction that is not related to actual emissions or increased pollution; and

WHEREAS, Air quality throughout the United States has improved significantly and dramatically from 1970 to the present day. For example, USEPA found that by 2015, the combined emissions of six common pollutants (including carbon monoxide, lead, nitrogen dioxide, and volatile organic compounds) had dropped 71%. This progress occurred while the U.S. population and economy continued to grow, Americans drove more miles, and energy use increased; and

WHEREAS, Many tests indicate that no measurable improvement in air quality is achieved through implementation of the E-Check Program. Many experts believe that improved technology by automobile manufacturers has reduced motor vehicle emissions much more effectively than government-imposed emissions testing. For example, according to University of Denver Senior Research Engineer Gary Bishop, emissions testing "costs lots of money"

but "does almost nothing to clean up the air." Bishop has 56
pioneered many new methods of emissions sensor testing and found 57
that in Tulsa, Oklahoma, which has no emission testing program, 58
emissions were no worse than in areas with strict emissions 59
testing regimes. Other reports, such as a recent State of 60
Colorado audit, conclude that the "public need" for emissions 61
testing is "uncertain" and recommend exempting vehicles from 62
model year 2001 onward. In Ohio, implementation of this 63
recommendation would result in almost total elimination of E- 64
Check because Ohio does not test vehicles more than 25 years 65
old. Thus, only vehicles built between 1994 and 2000 would be 66
subject to testing under the E-Check Program; and 67

WHEREAS, The Federal Clean Air Act requires geographic 68
areas within states that are classified as nonattainment for 69
specified criteria pollutants to implement emissions reduction 70
strategies including, in some circumstances, vehicle emissions 71
testing programs; and 72

WHEREAS, The Northeast Ohio area is currently in attainment 73
status based on the most recently available air quality 74
monitoring data; however, OEPA continues to require the 75
implementation of the E-Check Program, notwithstanding that 76
other alternative emissions reduction strategies are available; 77
and 78

WHEREAS, Through rulemaking, USEPA has made the emissions 79
standards for certain criteria pollutants more stringent, 80
thereby threatening Northeast Ohio's attainment status; and 81

WHEREAS, In particular, the stringency of the 2015 National 82
Ambient Air Quality Standards (NAAQS) directly impedes the 83
progress Northeast Ohio has made in reaching attainment status. 84
Northeast Ohio was redesignated as attainment for ozone under 85
the NAAQS that were established in 2008. As part of that 86
redesignation, Ohio amended its state implementation plan under 87

the Clean Air Act to provide for the maintenance of the ozone 88
standard in Northeast Ohio for ten years. The plan includes E- 89
Check as one of the methods for maintaining that ozone standard 90
in Northeast Ohio. If Ohio wants to eliminate E-Check in 91
Northeast Ohio, it must show that its elimination would not 92
interfere with any applicable requirement concerning attainment 93
or result in any "backsliding" of attainment status. In 2015, 94
USEPA made the standard for ozone more stringent. The result is 95
that Northeast Ohio is unjustly subjected to an unattainably 96
harsh standard that has changed course mid-stream, which makes 97
it difficult to ever eliminate the E-Check Program in that area; 98
and 99

WHEREAS, The chronological proximity between the 2008 and 100
2015 revisions to the NAAQS and the frequency with which NAAQS 101
are revised does not give Northeast Ohio and other areas an 102
opportunity to properly devise a plan to reach attainment status 103
or any assurance that attainment status will not be interfered 104
with. Thus, planning ahead in order to comply with the 105
requirements is impossibly difficult; and 106

WHEREAS, The inability to implement viable alternatives to 107
E-Check unjustly results in the continued implementation of the 108
E-Check Program in Northeast Ohio; and 109

WHEREAS, The E-Check Program is currently in place in seven 110
counties in Ohio, all in Northeast Ohio. Implementation of the 111
Program costs Ohio about \$10.6 million dollars per year. As a 112
result of the 2015 NAAQS, it is projected that at least one 113
other major area, Southwest Ohio (including the areas of 114
Cincinnati and Dayton), will be required to implement the E- 115
Check Program or find other reductions in emissions by 2020. If 116
Southwest Ohio implements the E-Check Program, Ohio's total 117
costs may be as high as \$25 million per year. It is also 118
possible that the 2015 NAAQS will cause other areas of Ohio to 119
fall out of attainment status, thus, increasing the costs even 120

further. While the purported purpose of the E-Check Program is 121
to contribute to a cleaner environment, it appears that Ohio's 122
tax dollars would be better spent on more effective 123
environmental programs such as saving Ohio's nuclear industry, 124
providing subsidies to wind and solar projects, or improving 125
water quality in Lake Erie; and 126

WHEREAS, Prevailing winds from manufacturing areas to the 127
west of Northeast Ohio, such as Chicago, Detroit, and Toledo, 128
can increase air pollutants in Northeast Ohio, and, in addition, 129
car and truck travel on interstate highways, such as Interstate 130
90 and the Ohio Turnpike, to and through the area regularly 131
results in increased air pollution; now therefore be it 132

RESOLVED, That we, the members of the Senate of the 133rd 133
General Assembly of the State of Ohio, respectfully urge 134
Congress and President Donald Trump to do all of the following: 135

-- Amend the Federal Clean Air Act to eliminate the 136
requirement to implement the E-Check Program; 137

-- Direct the Administrator of USEPA to begin new rule- 138
making procedures under the Administrative Procedures Act to 139
repeal and replace the 2015 NAAQS and prohibit the Administrator 140
from revising the NAAQS more than once every fifteen years; 141

-- Introduce and pass legislation to achieve improvements 142
in air quality while allowing companies to innovate and help the 143
economy grow; and be it further 144

RESOLVED, That we, the members of the Senate of the 133rd 145
General Assembly of the State of Ohio, urge the Administrator of 146
USEPA to alleviate burdensome and unproductive requirements of 147
the E-Check Program and the Clean Air Act if Congress and the 148
President fail to act, and encourage OEPA to explore 149
alternatives to E-Check in Ohio and to reallocate money used for 150
the E-Check Program to other environmentally beneficial 151

programs; and be it further 152

RESOLVED, That the Clerk of the Senate transmit duly 153
authenticated copies of this resolution to the members of the 154
Ohio Congressional delegation, the Administrator of the USEPA, 155
the Director of OEPA, the Executive Office of the President of 156
the United States, and the news media of Ohio. 157