

**As Reported by the House Federalism and Interstate Relations
Committee**

**132nd General Assembly
Regular Session
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H. R. No. 85

Representative Young

**Cosponsors: Representatives Retherford, Becker, Goodman, Zeltwanger,
Koehler**

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 HOUSE OF REPRESENTATIVES 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 23
on poor and lower and middle class citizens because such 24
citizens are more likely to own older motor vehicles that are 25
subject to the E-Check Program, and those vehicles are more 26
likely to fail an emissions test under the Program. In many 27
cases, a vehicle that is subject to the E-Check Program is the 28
only mode of transportation available to an individual and is 29
vital for maintaining employment, making doctor visits, 30
purchasing food and other necessities, and living a stable and 31
normal life; and 32

WHEREAS, E-Check inspectors indicate that older vehicles 33
function well and produce minimal pollution but, nonetheless, 34
fail E-Check emissions tests. Often, this is due to antiquated 35
on-board computers that malfunction more frequently. Thus, in 36
such cases, E-Check results in eliminating an individual's only 37
mode of transportation simply because of an inconsequential 38
computer malfunction that is not related to actual emissions or 39
increased pollution; and 40

WHEREAS, Air quality throughout the United States has 41
improved significantly and dramatically from 1970 to the present 42
day. For example, USEPA found that by 2015, the combined 43
emissions of six common pollutants (including carbon monoxide, 44
lead, nitrogen dioxide, and volatile organic compounds) had 45
dropped 71%. This progress occurred while the U.S. population 46
and economy continued to grow, Americans drove more miles, and 47
energy use increased; and 48

WHEREAS, Many tests indicate that no measurable improvement 49
in air quality is achieved through implementation of the E-Check 50

Program. Many experts believe that improved technology by 51
automobile manufacturers has reduced motor vehicle emissions 52
much more effectively than government-imposed emissions testing. 53
For example, according to University of Denver Senior Research 54
Engineer Gary Bishop, emission testing "costs lots of money" but 55
"does almost nothing to clean up the air." Bishop has pioneered 56
many new methods of emission sensor testing and found that in 57
Tulsa, Oklahoma, which has no emission testing program, 58
emissions were no worse than in areas with strict emission 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 1991 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 frequency with which NAAQS are 101
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
higher. While the purported purpose of the E-Check Program is to 121
contribute to a cleaner environment, it appears that Ohio's tax 122
dollars would be better spent on more effective environmental 123
programs such as saving Ohio's nuclear industry, providing 124
subsidies to wind and solar projects, or improving water quality 125
in Lake Erie; and 126

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

RESOLVED, That we, the members of the 132nd General 133
Assembly of the State of Ohio, respectfully urge Congress and 134
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 House of 145
Representatives of the 132nd General Assembly of the State of 146

Ohio, urge the Administrator of USEPA to alleviate burdensome 147
and unproductive requirements of the E-Check Program and the 148
Clean Air Act if Congress and the President fail to act, and 149
encourage OEPA to explore alternatives to E-Check in Ohio and to 150
reallocate money used for the E-Check Program to other 151
environmentally beneficial programs; and be it further 152

RESOLVED, That the Clerk of the Ohio House of 153
Representatives transmit duly authenticated copies of this 154
resolution to the members of the Ohio Congressional delegation, 155
the Administrator of the USEPA, the Director of OEPA, the 156
Executive Office of the President of the United States, and the 157
news media of Ohio. 158