

As Reported by the House Energy and Natural Resources Committee

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Representative Roemer

**Cosponsors: Representatives Patton, Butler, Riedel, Grendell, Hambley, Jordan,
Becker, Stoltzfus, DeVitis, Seitz, Wiggam, Stein, Plummer, Vitale**

A R E S O L U T I O N

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, emissions testing "costs lots of money" 55
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 1995 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
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 House of 133
Representatives of the 133rd General Assembly of the State of 134
Ohio, respectfully urge Congress and President Donald Trump to 135
do all of the following: 136

-- Amend the Federal Clean Air Act to eliminate the 137
requirement to implement the E-Check Program; 138

-- Direct the Administrator of USEPA to begin new rule- 139
making procedures under the Administrative Procedures Act to 140
repeal and replace the 2015 NAAQS and prohibit the Administrator 141
from revising the NAAQS more than once every fifteen years; 142

-- Introduce and pass legislation to achieve improvements 143
in air quality while allowing companies to innovate and help the 144
economy grow; and be it further 145

RESOLVED, That we, the members of the House of 146
Representatives of the 133rd General Assembly of the State of 147

Ohio, urge the Administrator of USEPA to alleviate burdensome 148
and unproductive requirements of the E-Check Program and the 149
Clean Air Act if Congress and the President fail to act, and 150
encourage OEPA to explore alternatives to E-Check in Ohio and to 151
reallocate money used for the E-Check Program to other 152
environmentally beneficial programs; and be it further 153

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