

As Adopted by the House

134th General Assembly

Regular Session

2021-2022

H. R. No. 56

Representatives Pavliga, Grendell

**Cosponsors: Representatives Bird, Edwards, Carruthers, Callender, Fowler
Arthur, Jordan, Jones, Manning, Kick, Ray, Roemer, Stein, Stoltzfus, Wiggam,
Young, B., Stephens, Click, Hillyer, Riedel, Baldrige, Cutrona, Fraizer, Ginter,
Hoops, Householder, John, Merrin, Patton, Troy, Vitale, Young, T.**

A R E S O L U T I O N

To respectfully urge the United States Congress and 1
the President to amend the Federal Clean Air Act 2
to 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 Procedure Act to repeal and 6
replace the 2015 National Ambient Air Quality 7
Standards; to respectfully urge the United States 8
Congress and the President 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 the United States Congress and the 15
President fail to act; and to encourage OEPA to 16
explore 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
Environmental Protection Agency (OEPA) imposes burdensome and
costly motor vehicle emissions testing requirements on the
citizenry of Northeast Ohio and wastes Ohio's valuable tax
dollars; and

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 50
the E-Check Program. Many experts believe that improved 51
technology by automobile manufacturers has reduced motor vehicle 52
emissions much more effectively than government-imposed 53
emissions testing. For example, according to University of 54
Denver Senior Research Engineer Gary Bishop, emissions testing 55
"costs lots of money" but "does almost nothing to clean up the 56
air." Bishop has pioneered many new methods of emissions sensor 57
testing and found that in Tulsa, Oklahoma, which has no emission 58
testing program, emissions were no worse than in areas with 59
strict emissions testing regimes. Other reports, such as a 60
recent State of Colorado audit, conclude that the "public need" 61
for emissions testing is "uncertain" and recommend exempting 62
vehicles from model year 2001 onward. In Ohio, implementation of 63
this recommendation would result in almost total elimination of 64
E-Check because Ohio does not test vehicles more than 25 years 65
old. Thus, only vehicles built between 1997 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 marginal 73
non-attainment status for ozone based on the most recently 74
available air quality monitoring data; however, OEPA continues 75
to require the implementation of the E-Check Program, 76
notwithstanding that other alternative emissions reduction 77
strategies are available; 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 Ambient Air Quality Standards (NAAQS) directly impedes the progress Northeast Ohio has made in reaching attainment status. Northeast Ohio was redesignated as attainment for ozone under the NAAQS that were established in 2008. As part of that redesignation, Ohio amended its state implementation plan under the Clean Air Act to provide for the maintenance of the ozone standard in Northeast Ohio for ten years. The plan includes E-Check as one of the methods for maintaining that ozone standard in Northeast Ohio. If Ohio wants to eliminate E-Check in Northeast Ohio, it must show that its elimination would not interfere with any applicable requirement concerning attainment or result in any "backsliding" of attainment status. In 2015, USEPA made the standard for ozone more stringent. The result is that Northeast Ohio is unjustly subjected to an unattainably harsh standard that has changed course midstream, which makes it difficult to ever eliminate the E-Check Program in that area; and

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

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

WHEREAS, The E-Check Program is currently in place in seven counties in Ohio, all in Northeast Ohio. Implementation of the Program costs Ohio about \$10.6 million dollars per year. As a result of the 2015 NAAQS, it is projected that at least one other major area, Southwest Ohio (including the areas of

Cincinnati and Dayton), may be required to implement the E-Check Program or find other reductions in emissions as it is also in marginal non-attainment for ozone. If Southwest Ohio implements the E-Check Program, Ohio's total costs may be as high as \$25 million per year. It is also possible that the 2015 NAAQS will cause other areas of Ohio to fall out of attainment status, thus, increasing the costs even further. While the purported purpose of the E-Check Program is to contribute to a cleaner environment, it appears that Ohio's tax dollars would be better spent on more effective environmental programs such as saving Ohio's nuclear industry, providing subsidies to wind and solar projects, or improving water quality in Lake Erie; and

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

RESOLVED, That we, the members of the House of Representatives of the 134th General Assembly of the State of Ohio, respectfully urge Congress and the President to do all of the following:

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

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

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

RESOLVED, That we, the members of the House of 146
Representatives of the 134th 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