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Dick Durbin

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S.L.C.

PENDING

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend title 49, United States Code, to improve the system for enhancing automobile fuel efficiency.

IN THE SENATE OF THE UNITED STATES—108th Cong., 1st Sess.

S. 14

To **AMENDMENT No. 1384** id

By *Durbin - Others*

To: *S. 14*

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AMENDMENT intended to be proposed by Mr. DURBIN (for himself, Mr. NELSON of Florida, Mrs. BOXER, ~~Mr. REID~~ *Mr. REID*, Mr. REED, and Mr. KENNEDY)

*Mr. LAUTENBERG,
Ms. CANTWELL,*

Viz:

1 At the end of subtitle B of title VII, add the fol-
2 lowing:

3 **SEC. 716. PHASED INCREASES IN FUEL ECONOMY STAND-**
4 **ARDS.**

5 (a) PASSENGER AUTOMOBILES.—

6 (1) MINIMUM STANDARDS.—Subsection (b) of
7 section 32902 of title 49, United States Code, is
8 amended to read as follows:

1 “(b) PASSENGER AUTOMOBILES.—Except as other-
2 wise provided under this section, the average fuel economy
3 standard for passenger automobiles manufactured by a
4 manufacturer in a model year—

5 “(1) after model year 1984 and before model
6 year 2006 shall be 25 miles per gallon;

7 “(2) after model year 2005 and before model
8 year 2009 shall be 28 miles per gallon;

9 “(3) after model year 2008 and before model
10 year 2012 shall be 32 miles per gallon;

11 “(4) after model year 2011 and before model
12 year 2015 shall be 36 miles per gallon; and

13 “(5) after model year 2014 shall be 40 miles
14 per gallon.”.

15 (2) HIGHER STANDARDS SET BY REGULA-
16 TION.—Subsection (c) of such section is amended—

17 (A) in the first sentence of paragraph

18 (1)—

19 (i) by striking “Subject to paragraph
20 (2) of this subsection, the” and inserting
21 “‘The’”; and

22 (ii) by striking “amending the stand-
23 ard” and inserting “increasing the stand-
24 ard otherwise applicable”;

25 (B) by striking paragraph (2); and

1 (C) by designating the text composed of
2 the second and third sentences of paragraph (1)
3 as paragraph (2) and realigning such para-
4 graph, as so designated, flush with the left mar-
5 gin.

6 (b) NON-PASSENGER AUTOMOBILES.—Subsection
7 (a) of such section is amended—

8 (1) by striking “At least 18 months before each
9 model year,” and inserting the following:

10 “(1) The average fuel economy standard applicable
11 for automobiles (except passenger automobiles) manufac-
12 tured by a manufacturer in a model year—

13 “(A) after model year 1984 and before model
14 year 2006 shall be 17 miles per gallon;

15 “(B) after model year 2005 and before model
16 year 2009 shall be 19 miles per gallon;

17 “(C) after model year 2008 and before model
18 year 2012 shall be 21.5 miles per gallon;

19 “(D) after model year 2011 and before model
20 year 2015 shall be 24.5 miles per gallon; and

21 “(E) after model year 2014 shall be 27.5 miles
22 per gallon, except as provided under paragraph (2).

23 “(2) At least 18 months before the beginning of each
24 model year after model year 2015,”; and

1 (2) by adding at the end the following new
2 paragraph:

3 “(3) If the Secretary does not increase the average
4 fuel economy standard applicable under paragraph (1)(E)
5 or (2), or applicable to any class under paragraph (2),
6 within 24 months after the latest increase in the standard
7 applicable under paragraph (1)(E) or (2), the Secretary
8 shall submit to Congress a report containing an expla-
9 nation of the reasons for not increasing the standard. The
10 report shall be submitted not later than 90 days after the
11 expiration of the 24-month period.”.

12 **SEC. 717. INCREASED INCLUSIVENESS OF DEFINITIONS OF**
13 **AUTOMOBILE AND PASSENGER AUTOMOBILE.**

14 (a) AUTOMOBILE.—

15 (1) IN GENERAL.—Paragraph (3) of section
16 32901(a) of title 49, United States Code, is
17 amended—

18 (A) by striking “6,000 pounds” each place
19 it appears in subparagraphs (A) and (B) and
20 inserting “12,000 pounds”; and

21 (B) in subparagraph (B)—

22 (i) by striking “10,000 pounds” and
23 inserting “14,000 pounds”; and

1 (ii) in clause (ii), by striking “an av-
2 erage fuel economy standard” and all that
3 follows through “conservation or”.

4 (2) SPECIAL RULE.—Section 32908(a)(1) of
5 such title is amended by striking “8,500 pounds”
6 and inserting “14,000 pounds”.

7 (b) PASSENGER AUTOMOBILE.—Paragraph (16) of
8 section 32901(a) of such title is amended to read as fol-
9 lows:

10 “(16) ‘passenger automobile’—

11 “(A) means, except as provided in sub-
12 paragraph (B), an automobile having a gross
13 vehicle weight of 12,000 pounds or less that is
14 designed to be used principally for the transpor-
15 tation of persons; but

16 “(B) does not include—

17 “(i) a vehicle that has a primary load
18 carrying device or container attached;

19 “(ii) a vehicle that has a seating ca-
20 pacity of more than 12 persons;

21 “(iii) a vehicle that has a seating ca-
22 pacity of more than 9 persons behind the
23 driver’s seat; or

24 “(iv) a vehicle that is equipped with a
25 cargo area of at least 6 feet in interior

1 length that does not extend beyond the
2 frame of the vehicle and is an open area or
3 is designed for use as an open area but is
4 enclosed by a cap and is not readily acces-
5 sible directly from the passenger compart-
6 ment.”.

7 (c) APPLICABILITY.—The amendments made by this
8 section shall apply with respect to automobiles manufac-
9 tured for model years after the automobile model year in
10 which this Act is enacted.

11 **SEC. 718. CIVIL PENALTIES.**

12 (a) INCREASED PENALTY FOR VIOLATIONS OF FUEL
13 ECONOMY STANDARDS.—Subsection (b) of section 32912
14 of title 49, United States Code, is amended—

15 (1) by inserting “(1)” after “STANDARDS.—”;

16 (2) by striking “\$5” and inserting “the dollar
17 amount applicable under paragraph (2)”;

18 (3) by redesignating paragraphs (1), (2), and

19 (3) as subparagraphs (A), (B), and (C), respectively;

20 and

21 (4) by adding at the end the following new
22 paragraph:

23 “(2)(A) The dollar amount referred to in paragraph

24 (1) is \$10, as increased from time to time under subpara-
25 graph (B).

1 “(B) Effective on October 1 of each year, the dollar
2 amount applicable under subparagraph (A) shall be in-
3 creased by the percentage (rounded to the nearest one-
4 tenth of one percent) by which the price index for July
5 of such year exceeds the price index for July of the pre-
6 ceding year. The amount calculated under the preceding
7 sentence shall be rounded to the nearest \$0.10.

8 “(C) In this paragraph, the term ‘price index’ means
9 the Consumer Price Index for all-urban consumers pub-
10 lished monthly by the Department of Labor.”.

11 (b) CONFORMING AMENDMENT.—Subsection (c)(1)
12 of such section is amended—

13 (1) by striking subparagraph (B); and

14 (2) by redesignating subparagraphs (C) and
15 (D) as subparagraphs (B) and (C), respectively.

16 (c) APPLICABILITY.—The amendments made by sub-
17 section (a) shall apply with respect to automobiles manu-
18 factured for model years after the automobile model year
19 in which this Act is enacted.

20 **SEC. 719. ACCURATE FUEL ECONOMY TESTING.**

21 (a) BIENNIAL REPORT ON TESTING QUALITY.—

22 (1) REQUIREMENT FOR REPORT.—

23 (A) IN GENERAL.—Chapter 329 of title
24 49, United States Code, is amended by adding
25 at the end the following new section:

1 **“§ 32920. Biennial report on testing quality**

2 “(a) REQUIREMENT FOR REPORT.—Not later than
3 October 1 of each odd-numbered year, the Secretary of
4 Transportation shall submit to Congress a report on the
5 quality of the testing for determining automobile fuel
6 economy under this chapter.

7 “(b) CONTENT OF REPORT.—The report shall in-
8 clude the following information:

9 “(1) An assessment of the accuracy of the fuel
10 economy determined for automobiles in relation to
11 actual highway and road vehicle fuel economy.

12 “(2) A discussion of changes in testing method-
13 ology that are planned to be made, together with an
14 assessment of the effects that such changes are ex-
15 pected to have on the accuracy of the measures of
16 automobile fuel economy resulting from the use of
17 the testing methodology as changed.

18 “(c) CONSULTATION REQUIREMENT.—The Secretary
19 of Transportation and the Administrator of the Environ-
20 mental Protection Agency shall consult on the preparation
21 of the biennial report under this section.”.

22 (B) CLERICAL AMENDMENT.—The table of sec-
23 tions at the beginning of such chapter is amended
24 by adding at the end the following new item:

“32920. Biennial report on testing quality.”.

1 (2) FIRST REPORT.—The first report under sec-
2 tion 32920 of title 49, United States Code, as added
3 by paragraph (1), shall be submitted to Congress in
4 2005.

5 (b) IMPROVEMENT OF PROCESS FOR MEASURING
6 FUEL ECONOMY.—

7 (1) STUDY.—

8 (A) REQUIREMENT FOR STUDY.—The Sec-
9 retary of Transportation shall provide for the
10 John A. Volpe National Transportation Sys-
11 tems Center to carry out a study—

12 (i) to determine what practicable
13 automobile fuel economy testing process
14 provides the most accurate measures of ac-
15 tual automobile fuel economy in highway
16 use, in urban use, and in combined high-
17 way and in urban use; and

18 (ii) to compare the average automobile
19 fuel economy ratings calculated under the
20 testing process determined under clause (i)
21 for each category of automobile use de-
22 scribed in that clause with the cor-
23 responding automobile fuel economy rat-
24 ings calculated under the testing process in
25 use under chapter 329 of title 49, United

1 States Code, on the date of the enactment
2 of this Act.

3 (B) REPORT.—Not later than two years
4 after the date of the enactment of this Act, the
5 Secretary shall submit to Congress a report on
6 the results of the study under subparagraph
7 (A). The report shall include the following:

8 (i) DETERMINATIONS.—The deter-
9 mination and comparisons made under
10 clauses (i) and (ii) of subparagraph (A).

11 (ii) ESTIMATE OF EQUIVALENT FUEL
12 ECONOMY.—An estimate of the average ad-
13 justment to automobile fuel economy rat-
14 ings calculated under the testing process
15 used for the purposes of chapter 329 of
16 title 49, United States Code, as of the date
17 of enactment of this Act that is needed to
18 conform those ratings closely to the auto-
19 mobile fuel economy ratings calculated
20 under the testing process determined most
21 accurate under subparagraph (A)(i).

22 (2) TESTING PROCEDURE REVISION.—

23 (A) REQUIREMENT FOR REVISED PROCE-
24 DURE.—Not later than 180 days after the re-
25 port required under paragraph (1)(B) is sub-

1 mitted to Congress, the Secretary of Transpor-
2 tation shall prescribe in regulations—

3 (i) a revised testing procedure for ac-
4 curately measuring the actual automobile
5 fuel economy of each model of automobile;
6 and

7 (ii) a requirement that the revised
8 testing procedure be applied for the pur-
9 poses of chapter 329 of title 49, United
10 States Code, to determine the average fuel
11 economy of the automobiles manufactured
12 in model years after model year 2006.

13 (B) MODEL FOR REVISED PROCEDURE.—

14 The testing procedure prescribed under sub-
15 paragraph (A) shall be based on the testing
16 process identified in the report required under
17 paragraph (1)(B) as providing the most accu-
18 rate measures of actual automobile fuel econ-
19 omy.

20 (3) COMPARABLE ADJUSTMENT IN AVERAGE
21 FUEL ECONOMY STANDARDS.—

22 (A) REQUIREMENT FOR ADJUSTMENT.—

23 For automobiles manufactured in model years
24 after model year 2006, the Secretary of Trans-
25 portation shall amend each average fuel econ-

1 (ii) by striking “to achieve” and all
2 that follows and inserting “to achieve—”;
3 and

4 (B) by striking subparagraphs (A) and (B)
5 and inserting the following:

6 “(A) in the case of non-passenger automobiles,
7 a fleet average fuel economy for that year of at least
8 the average fuel economy standard applicable under
9 subsection (a) of section 32902 of this title for the
10 model year that includes January 1 of that fiscal
11 year; and

12 “(B) in the case of passenger automobiles, a
13 fleet average fuel economy for that year of at least
14 the average fuel economy standard applicable under
15 subsection (b) or (c) of such section for such model
16 year.”;

17 (2) in paragraph (2) of subsection (b)—

18 (A) by striking “Fleet average fuel econ-
19 omy is—” and inserting “For the purposes of
20 paragraph (1), the fleet average fuel economy of
21 non-passenger or passenger automobiles in a
22 fiscal year is—”;

23 (B) in subparagraph (A)—

24 (i) by striking “passenger auto-
25 mobiles” and inserting “the non-passenger

1 automobiles or passenger automobiles, re-
2 spectively, that are”; and

3 (ii) by striking “in a fiscal year” and
4 inserting “in such fiscal year”; and

5 (C) in subparagraph (B), by inserting
6 “such” after “the number of”; and

7 (3) by adding at the end the following new sub-
8 section:

9 “(c) MINIMUM NUMBER OF EXCEPTIONALLY FUEL-
10 EFFICIENT VEHICLES.—The President shall prescribe
11 regulations that require that—

12 “(1) at least 20 percent of the passenger auto-
13 mobiles leased for at least 60 consecutive days or
14 bought by executive agencies in a fiscal year have a
15 vehicle fuel economy rating that is at least 5 miles
16 per gallon higher than the average fuel economy
17 standard applicable to the automobile under sub-
18 section (b) or (c) of section 32902 of this title for
19 the model year that includes January 1 of that fiscal
20 year; and

21 “(2) beginning in fiscal year 2009, at least
22 10,000 vehicles in the fleet of automobiles used by
23 executive agencies in a fiscal year have a vehicle fuel
24 economy at least 5 miles per gallon higher than the
25 average fuel economy standards applicable to such

1 automobiles under section 32902 of this title for the
2 model year that includes January 1 of that fiscal
3 year.”.