

114TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To deny corporate average fuel economy credits obtained through a violation of law, establish an Air Quality Restoration Trust Fund within the Department of the Treasury, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY (for himself and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on

---

**A BILL**

To deny corporate average fuel economy credits obtained through a violation of law, establish an Air Quality Restoration Trust Fund within the Department of the Treasury, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Compensating Losses  
5 to the Environment from Automobiles with Noxious Un-  
6 disclosed Pollution Act of 2016” or the “CLEANUP Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:



1 (bb) greater than 14,000  
2 pounds but less than 33,000  
3 pounds that draws motive power  
4 from a battery with a capacity of  
5 at least 15 kilowatt-hours; or

6 (cc) greater than 33,000  
7 pounds that draws motive power  
8 from a battery with a capacity of  
9 at least 20 kilowatt-hours; and

10 (ii) can be recharged from an external  
11 source of electricity for motive power; or

12 (B) is a motor vehicle (as defined in sec-  
13 tion 216 of the Clean Air Act (42 U.S.C.  
14 7550)) that draws motive power from a fuel cell  
15 (as defined in section 803 of the Spark M. Mat-  
16 sunaga Hydrogen Act of 2005 (42 U.S.C.  
17 16152)).

18 (3) ELIGIBLE APPLICANT.—The term “eligible  
19 applicant” means—

20 (A) a State;

21 (B) an Indian tribe (as defined in section  
22 4 of the Indian Self-Determination and Edu-  
23 cation Assistance Act (25 U.S.C. 450b));

24 (C) a unit of local government; or

1 (D) a group composed of not fewer than

2 2—

3 (i) States;

4 (ii) Indian tribes; or

5 (iii) units of local government.

6 (4) QUALIFIED ELECTRIC DRIVE VEHICLE IN-  
7 FRASTRUCTURE.—

8 (A) IN GENERAL.—The term “qualified  
9 electric drive vehicle infrastructure” means any  
10 equipment or service that—

11 (i) supports the electric refueling  
12 needs of electric drive vehicles; and

13 (ii) serves smart grid functions (as de-  
14 fined in section 1306(d) the Energy Inde-  
15 pendence and Security Act of 2007 (42  
16 U.S.C. 17386)) that optimize the integra-  
17 tion of electric drive vehicles into the elec-  
18 tric grid.

19 (B) INCLUSIONS.—The term “qualified  
20 electric drive vehicle infrastructure” includes  
21 any equipment or services described in subpara-  
22 graph (A) that is located in a public or private  
23 location, including—

24 (i) a street parking location;

25 (ii) a parking garage;

- 1 (iii) a parking lot;
- 2 (iv) a home;
- 3 (v) a gas station; and
- 4 (vi) a highway rest stop.

5 (5) SECRETARY.—The term “Secretary” means  
6 the Secretary of the Treasury.

7 **SEC. 3. AVERAGE FUEL ECONOMY CREDITS OBTAINED BY**  
8 **REASON OF VIOLATION OF LAW.**

9 (a) DENIAL OF CREDITS.—Section 32903 of title 49,  
10 United States Code, is amended by adding at the end the  
11 following:

12 “(i) DENIAL OF CREDITS OBTAINED BY REASON OF  
13 VIOLATION OF LAW.—If the Secretary determines that a  
14 manufacturer has obtained credits under this section by  
15 reason of a practice that violates this title or title II of  
16 the Clean Air Act (42 U.S.C. 7521 et seq.), such credits  
17 shall not be available to the manufacturer.”.

18 (b) ADDITIONAL CIVIL PENALTY.—Section 32912 of  
19 title 49, United States Code, is amended—

20 (1) in subsection (c)(1)—

21 (A) in subparagraph (A), by striking “of  
22 this section” and inserting “or for each credit  
23 to be used in calculating a civil penalty under  
24 subsection (f)”; and

1 (B) in subparagraph (B), by inserting “or  
2 each credit, as the case may be” before the pe-  
3 riod at the end; and

4 (2) by adding at the end the following:

5 “(f) CIVIL PENALTY WITH RESPECT TO AVERAGE  
6 FUEL ECONOMY CREDITS OBTAINED BY REASON OF VIO-  
7 LATION OF LAW.—In addition to any other penalty under  
8 this title and except as provided under subsection (c), a  
9 manufacturer that obtains credits under section 32903 by  
10 reason of a practice that violates this title or title II of  
11 the Clean Air Act (42 U.S.C. 7521 et seq.) is liable to  
12 the Government for a civil penalty in an amount equal  
13 to \$5 multiplied by the number of such credits.”.

14 **SEC. 4. AIR QUALITY RESTORATION TRUST FUND.**

15 (a) ESTABLISHMENT.—There is established in the  
16 Treasury of the United States a trust fund to be known  
17 as the “Air Quality Restoration Trust Fund” (referred to  
18 in this section as the “Trust Fund”), consisting of—

19 (1) such amounts as are deposited in the Trust  
20 Fund under subsection (b); and

21 (2) any interest on, and proceeds from, any in-  
22 vestment made under subsection (d).

23 (b) TRANSFERS.—The Secretary shall deposit in the  
24 Trust Fund an amount equal to all administrative and  
25 civil penalties or other payments paid to the Federal Gov-

1 ernment after the date of enactment of this Act in connec-  
2 tion with any violation or alleged violation of title II of  
3 the Clean Air Act (42 U.S.C. 7521 et seq.).

4 (c) AVAILABILITY.—Amounts in the Trust Fund  
5 shall—

6 (1) be available for expenditure to the extent  
7 and in the amounts provided in advance by appro-  
8 priation Acts solely for making expenditures under  
9 subsection (f); and

10 (2) remain available until expended, without fis-  
11 cal year limitation.

12 (d) INVESTMENT.—Amounts in the Trust Fund shall  
13 be invested in accordance with section 9702 of title 31,  
14 United States Code.

15 (e) ADMINISTRATION.—Not later than 180 days after  
16 the date of enactment of this Act, after providing notice  
17 and an opportunity for public comment, the Secretary, in  
18 consultation with the Administrator and the heads of any  
19 other relevant Federal agency, shall establish such proce-  
20 dures as the Secretary determines to be necessary to de-  
21 posit amounts in, and expend amounts from, the Trust  
22 Fund pursuant to this section, including—

23 (1) procedures to assess whether a project car-  
24 ried out under subsection (f) achieves compliance  
25 with applicable requirements, including procedures

1 by which the Secretary may determine whether an  
2 expenditure pursuant to the project achieves compli-  
3 ance;

4 (2) auditing requirements to ensure that  
5 amounts in the Trust Fund are expended as in-  
6 tended; and

7 (3) procedures for identification and allocation  
8 of funds available to the Secretary under other pro-  
9 visions of law that may be necessary to pay the ad-  
10 ministrative expenses directly attributable to the  
11 management of the Trust Fund.

12 (f) USE OF FUNDS.—Amounts from the Trust Fund  
13 shall be available solely for making grants to eligible appli-  
14 cants to support projects that —

15 (1) increase qualified electric drive vehicle infra-  
16 structure;

17 (2) retrofit school buses or heavy-duty fleets to  
18 reduce air emissions significantly;

19 (3) purchase hybrid or zero emissions school  
20 buses or heavy-duty vehicles;

21 (4) purchase electric drive vehicles for munic-  
22 ipal fleets;

23 (5) provide public health grants to help track,  
24 treat, and reduce the number of air emissions-re-

1       lated illnesses, such as asthma, cardiovascular dis-  
2       ease, and lung cancer; or  
3               (6) provide grants for projects to improve air  
4       quality in low-income communities.