[DISCUSSION DRAFT]

112TH CONGRESS 1ST SESSION

H. R. [Blank]

To amend the Clean Air Act to prohibit the Administrator of the Environmental Protection Agency from promulgating any regulation concerning, taking action relating to, or taking into consideration the emission of a greenhouse gas due to concerns regarding possible climate change, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M[Blank] introduced the following bill; which was referred to the Committee on [Blank]

A BILL

To amend the Clean Air Act to prohibit the Administrator of the Environmental Protection Agency from promulgating any regulation concerning, taking action relating to, or taking into consideration the emission of a greenhouse gas due to concerns regarding possible climate change, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Energy Tax Prevention Act of 2011”.

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6 Act of 2011”.

February 2, 2011 (5:05 p.m.)
SEC. 2. NO REGULATION OF EMISSIONS OF GREENHOUSE GASES.

Title III of the Clean Air Act (42 U.S.C. 7601 et seq.) is amended by adding at the end the following:

"SEC. 330. NO REGULATION OF EMISSIONS OF GREENHOUSE GASES.

“(a) DEFINITION.—In this section, the term ‘greenhouse gas’ means any of the following:

“(1) Water vapor.
“(2) Carbon dioxide.
“(3) Methane.
“(4) Nitrous oxide.
“(5) Sulfur hexafluoride.
“(6) Hydrofluorocarbons.
“(7) Perfluorocarbons.
“(8) Any other substance subject to, or proposed to be subject to, regulation, action, or consideration under this Act due to concerns regarding possible climate change.

“(b) LIMITATION ON AGENCY ACTION.—

“(1) LIMITATION.—

“(A) IN GENERAL.—The Administrator may not, under this Act, promulgate any regulation concerning, take action relating to, or take into consideration the emission of a green-
house gas due to concerns regarding possible climate change.

“(B) Air pollutant definition.—The definition of the term ‘air pollutant’ in section 302(g) does not include a greenhouse gas. Notwithstanding the previous sentence, such definition may include a greenhouse gas for purposes of addressing concerns other than possible climate change.

“(2) Exceptions.—Paragraph (1) does not prohibit the following:

“(B) Statutorily authorized Federal research, development, and demonstration programs addressing climate change.

“(C) A regulation, action, or consideration under title VI, except to the extent to which the regulation, action, or consideration is based on the potential or actual effect of a greenhouse gas on climate change.

“(3) INAPPLICABILITY OF PROVISIONS.—Nothing listed in paragraph (2) shall cause a greenhouse gas to be considered subject to part C of title I (relating to prevention of significant deterioration of air quality) or considered an air pollutant for purposes of title V (relating to permits).

“(4) CERTAIN PRIOR AGENCY ACTIONS.—The following rules and actions are repealed and shall have no legal effect:


and the memorandum from Stephen L. Johnson, Environmental Protection Agency (EPA) Administrator, to EPA Regional Administrators, concerning ‘EPA’s Interpretation of Regulations that Determine Pollutants Covered by Federal Prevention of Significant Deterioration (PSD) Permit Program’ (December 18, 2008).


¢ration Program; Proposed Rule’, published at 75 Fed. Reg. 82,365 (December 30, 2010).

“(K) Any other Federal action under this Act occurring before the date of enactment of this section that applies a stationary source permitting requirement or an emissions standard for a greenhouse gas due to concerns regarding possible climate change.

“(5) STATE ACTION.—

“(A) NO LIMITATION.—This section does not limit or otherwise affect the authority of a State to adopt, amend, enforce, or repeal State laws and regulations pertaining to the emission of a greenhouse gas.

“(B) EXCEPTION.—

“(i) RULE.—Notwithstanding subparagraph (A), any provision described in clause (ii)—

“(I) is not federally enforceable;

and

“(II) is not deemed to be a part of Federal law.

“(ii) PROVISION DEFINED.—For purposes of clause (i), the term ‘provision’ means any provision that—
“(I) is contained in a State implementation plan under section 110 and authorizes or requires a limitation on, or imposes a permit requirement for, the emission of a greenhouse gas due to concerns regarding possible climate change; or

“(II) is part of an operating permit program under title V, or a permit issued pursuant to title V, and authorizes or requires a limitation on the emission of a greenhouse gas due to concerns regarding possible climate change.

“(C) ACTION BY ADMINISTRATOR.—The Administrator may not approve or make federally enforceable any provision described in subparagraph (B)(ii).”.

SEC. 3. REGULATION OF AUTOMOBILES.

Section 209(b) of the Clean Air Act (42 U.S.C. 7543) is amended by adding at the end the following:

“(4) With respect to standards for emissions of greenhouse gases (as defined in section 330) for model year 2017 or any subsequent model year new motor vehicles and new motor vehicle engines—
“(A) the Administrator may not waive application of subsection (a); and

“(B) no waiver granted prior to the date of enactment of this paragraph may be construed to waive the application of subsection (a).”.