

119TH CONGRESS
2D SESSION

S. _____

To amend the Clean Air Act to require Congress to approve of the application of certain executive exemptions under that Act, to strike an exemption under that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To amend the Clean Air Act to require Congress to approve of the application of certain executive exemptions under that Act, to strike an exemption under that Act, 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 “No Passes for Pol-
5 luters Act of 2026”.

6 **SEC. 2. CONGRESSIONAL APPROVAL OF USE OF EXEMP-**
7 **TIONS UNDER THE CLEAN AIR ACT.**

8 (a) APPROVAL PROCESS.—

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

4 **“SEC. 330. CONGRESSIONAL APPROVAL OF USE OF EXEMP-**
5 **TIONS.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) COMPTROLLER GENERAL.—The term
8 ‘Comptroller General’ means the Comptroller Gen-
9 eral of the United States.

10 “(2) COVERED EXEMPTION.—

11 “(A) IN GENERAL.—The term ‘covered ex-
12 emption’ means an exemption, including the
13 adoption of regulations or issuance of orders, as
14 applicable, under—

15 “(i) section 118(b);

16 “(ii) section 248(e); and

17 “(iii) section 604(f).

18 “(B) INCLUSION.—The term ‘covered ex-
19 emption’ includes an extension of a covered ex-
20 emption, if that extension is authorized under
21 applicable law.

22 “(3) JOINT RESOLUTION.—The term ‘joint res-
23 olution’ means a joint resolution of the House of
24 Representatives or the Senate that only expresses

1 the approval of Congress of a proposed use of a cov-
2 ered exemption set forth in a special message.

3 “(4) SPECIAL MESSAGE.—The term ‘special
4 message’ means a special message transmitted by
5 the President to the Senate and the House of Rep-
6 resentatives pursuant to subsection (c)(1).

7 “(b) LIMITATION ON USE OF EXEMPTIONS.—Not-
8 withstanding any other provision of this Act—

9 “(1) neither the President, the Administrator,
10 the head of any Federal department or agency, nor
11 any office or employee of the United States may use
12 a covered exemption or, as applicable, extend a cov-
13 ered exemption except after a joint resolution is en-
14 acted in accordance with this section; and

15 “(2) neither the use of a covered exemption nor,
16 as applicable, the extension of a covered exemption
17 shall have any force or effect except after a joint res-
18 olution is enacted in accordance with this section.

19 “(c) PROPOSED USE OF EXEMPTION.—

20 “(1) TRANSMITTAL OF SPECIAL MESSAGE.—
21 Whenever the President, the Administrator, the head
22 of any Federal department or agency, or any officer
23 or employee of the United States proposes to use a
24 covered exemption, the President shall transmit to
25 the Senate and the House of Representatives, elec-

1 tronically or through physical means, a special mes-
2 sage describing—

3 “(A) the covered exemption proposed to be
4 used;

5 “(B) the period of time during which the
6 covered exemption is proposed to be used;

7 “(C) the reasons for the proposed use of a
8 covered exemption, including any legal authority
9 invoked to justify that proposed use; and

10 “(D) all facts, circumstances, and consid-
11 erations relating to or bearing on the proposed
12 use of the covered exemption, including—

13 “(i) an analysis of the application of
14 those facts, circumstances and consider-
15 ations to any legal authority invoked to
16 justify the proposed use of the covered ex-
17 emption; and

18 “(ii) to the maximum extent prac-
19 ticable, the estimated effect of the pro-
20 posed use.

21 “(2) INCLUSION OF MULTIPLE USES.—A special
22 message may include 1 or more proposed uses of
23 covered exemptions.

24 “(3) CONSISTENCY WITH LEGISLATIVE POL-
25 ICY.—

1 “(A) IN GENERAL.—The use of a covered
2 exemption shall only be permissible as specifi-
3 cally provided by law.

4 “(B) LIMITATION.—No officer or employee
5 of the United States may use a covered exemp-
6 tion for any purpose other than a purpose de-
7 scribed in subparagraph (A).

8 “(d) TRANSMISSION OF SPECIAL MESSAGES; PUBLI-
9 CATION.—

10 “(1) DELIVERY TO HOUSES OF CONGRESS.—

11 “(A) IN GENERAL.—Each special message
12 shall—

13 “(i) be transmitted to the Senate and
14 the House of Representatives on the same
15 day;

16 “(ii) if the Senate is not in session on
17 the day the special message is transmitted,
18 be delivered to the Secretary of the Senate;
19 and

20 “(iii) if the House of Representatives
21 is not in session on the day the special
22 message is transmitted, be delivered to the
23 Clerk of the House of Representatives.

1 “(B) COMMITTEE REFERRAL; PRINTING.—
2 Each special message transmitted to the Senate
3 and the House of Representatives shall—

4 “(i) be referred to the appropriate
5 committee of the Senate and the House of
6 Representatives; and

7 “(ii) be printed as a document of each
8 House.

9 “(2) DELIVERY TO COMPTROLLER GENERAL.—

10 “(A) IN GENERAL.—A copy of each special
11 message shall be transmitted to the Comptroller
12 General on the same day that the special mes-
13 sage is transmitted to the Senate and the
14 House of Representatives.

15 “(B) NOTIFICATION.—In order to assist
16 Congress in the exercise of the functions of
17 Congress under this section, the Comptroller
18 General shall review each special message and
19 notify the Senate and the House of Representa-
20 tives as soon as practicable as to—

21 “(i) the facts surrounding the pro-
22 posed use of the applicable covered exemp-
23 tion; and

24 “(ii) whether or not (or to what ex-
25 tent), in the judgment of the Comptroller

1 General, the proposed use of the applicable
2 covered exemption is in accordance with
3 existing statutory authority.

4 “(3) TRANSMISSION OF SUPPLEMENTARY MES-
5 SAGES.—

6 “(A) IN GENERAL.—If any information
7 contained in a special message is subsequently
8 revised, the President shall transmit to both
9 Houses of Congress and the Comptroller Gen-
10 eral a supplementary message stating and ex-
11 plaining the revision.

12 “(B) APPLICABILITY OF PROVISIONS.—
13 Any supplementary message under subpara-
14 graph (A) shall be delivered, referred, and
15 printed as provided in paragraph (1).

16 “(C) COMPTROLLER GENERAL NOTIFICA-
17 TION.—The Comptroller General shall promptly
18 notify the Senate and the House of Representa-
19 tives of any change in the notification under
20 paragraph (2)(B) that may necessitated by the
21 supplementary message under subparagraph
22 (A).

23 “(4) PRINTING IN FEDERAL REGISTER.—Any
24 special message transmitted to Congress, and any
25 supplementary message transmitted to Congress

1 under paragraph (3)(A), shall be printed in the first
2 issue of the Federal Register published after the
3 transmission.

4 “(5) CUMULATIVE REPORTS.—

5 “(A) IN GENERAL.—Not later than the
6 10th day of each month during a fiscal year,
7 the President shall submit to the Senate and
8 the House of Representatives a report that de-
9 scribes—

10 “(i) as of the first day of that month,
11 each special message transmitted to Con-
12 gress during the previous month; and

13 “(ii) with respect to each special mes-
14 sage transmitted to Congress during the
15 previous month, the information required
16 to be submitted in that special message.

17 “(B) PUBLICATION.—Each report sub-
18 mitted under subparagraph (A) shall be printed
19 in the first issue of the Federal Register pub-
20 lished after the submission of the report to the
21 Senate and the House of Representatives.

22 “(e) REPORTS BY COMPTROLLER GENERAL.—

23 “(1) IN GENERAL.—The Comptroller General
24 shall submit to both Houses of Congress a report de-

1 scribed in paragraph (2) if the Comptroller General
2 finds that—

3 “(A) the President, the Administrator, the
4 head of any department or agency of the
5 United States, or any other officer or employee
6 of the United States has ordered, permitted, or
7 approved the use of an exemption under this
8 Act that is a covered exemption; and

9 “(B) the President has failed to transmit
10 a special message with respect to the use of the
11 covered exemption.

12 “(2) REPORT.—A report under paragraph (1)
13 shall include any available information concerning
14 the use of a covered exemption described in that
15 paragraph.

16 “(3) APPLICABILITY.—With respect to a report
17 under paragraph (1)—

18 “(A) the provisions of this section shall
19 apply to the proposed use of a covered exemp-
20 tion described in that report in the same man-
21 ner and with the same effect as if the report
22 were a special message transmitted by the
23 President; and

24 “(B) for purposes of this section, the re-
25 port shall be considered a special message.

1 “(f) PROCEDURE IN THE SENATE AND HOUSE.—

2 “(1) REFERRAL.—Any joint resolution intro-
3 duced with respect to a special message shall be re-
4 ferred to the Committee on Environment and Public
5 Works of the Senate or the Committee on Energy
6 and Commerce of the House of Representatives, as
7 applicable.

8 “(2) DISCHARGE OF COMMITTEE.—

9 “(A) IN GENERAL.—If the committee to
10 which a joint resolution has been referred has
11 not reported the joint resolution by the end of
12 the 15-session day period that begins on the
13 date of the introduction of the joint resolution,
14 it shall be in order to move—

15 “(i) to discharge the committee from
16 further consideration of the joint resolu-
17 tion; or

18 “(ii) to discharge the committee from
19 further consideration of any other joint
20 resolution with respect to the same special
21 message with respect to the same proposed
22 use of a covered exemption, as the case
23 may be, that has been referred to the com-
24 mittee.

25 “(B) PROCEDURE ON FLOOR.—

11

1 “(i) MOTION TO DISCHARGE.—A mo-
2 tion to discharge described in subpara-
3 graph (A)—

4 “(I) may be made only—

5 “(aa) by an individual favor-
6 ing the joint resolution; and

7 “(bb) if supported by $\frac{1}{5}$ of
8 the Members of the applicable
9 House (a quorum being present);
10 and

11 “(II) may not be made after the
12 committee has reported a joint resolu-
13 tion with respect to the same special
14 message.

15 “(ii) STATUS.—A motion to discharge
16 described in subparagraph (A) is—

17 “(I) privileged in the Senate; and

18 “(II) highly privileged in the
19 House of Representatives.

20 “(iii) DEBATE.—Debate on a motion
21 to discharge in described in subparagraph
22 (A) shall be limited to not more than 1
23 hour in each House, the time for which—

24 “(I) in the Senate, shall be di-
25 vided equally between, and controlled

1 by, the majority leader and the minor-
2 ity leader (or their designees); and

3 “(II) in the House of Represent-
4 atives, shall be divided equally be-
5 tween those favoring and those oppos-
6 ing the joint resolution.

7 “(iv) NO AMENDMENT.—No amend-
8 ment to a motion to discharge described in
9 subparagraph (A) shall be in order.

10 “(v) NO MOTION TO RECONSIDER.—It
11 shall not be in order to move to reconsider
12 the vote by which a motion to discharge
13 described in subparagraph (A) is agreed to
14 or disagreed to.

15 “(3) FLOOR CONSIDERATION IN THE SEN-
16 ATE.—

17 “(A) DEBATE.—Debate in the Senate on
18 any joint resolution and debatable motions and
19 appeals in connection with that joint resolution
20 shall be limited to not more than 10 hours, with
21 the time to be equally divided between, and con-
22 trolled by, the majority leader and the minority
23 leader (or their designees).

1 “(B) MOTION TO FURTHER LIMIT DE-
2 BATE.—A motion to further limit debate on a
3 joint resolution is not debatable in the Senate.

4 “(C) NO AMENDMENTS OR MOTIONS TO
5 RECOMMIT.—No amendment to or motion to re-
6 commit a joint resolution is in order in the Sen-
7 ate.

8 “(D) VOTE REQUIRED.—The Senate may
9 only agree to a joint resolution on the affirma-
10 tive vote of $\frac{2}{3}$ of the Members of the Senate
11 present and voting.

12 “(4) PROCEDURE IN THE HOUSE.—

13 “(A) MOTION TO PROCEED.—

14 “(i) IN GENERAL.—When the Com-
15 mittee on Energy and Commerce of the
16 House of Representatives has reported, or
17 has been discharged from further consider-
18 ation, a joint resolution, it shall at any
19 time thereafter be in order (even though a
20 previous motion to the same effect has
21 been disagreed to) to move to proceed to
22 the consideration of the joint resolution.

23 “(ii) STATUS.—A motion under clause
24 (i) shall be highly privileged and not debat-
25 able.

14

1 “(iii) NO AMENDMENTS OR MOTIONS
2 TO RECONSIDER.—No amendment to or
3 motion to reconsider a motion under clause
4 (i) shall be in order.

5 “(B) DEBATE.—

6 “(i) IN GENERAL.—Debate on a joint
7 resolution shall be limited to not more than
8 2 hours, which shall be divided equally be-
9 tween those favoring and those opposing
10 the joint resolution.

11 “(ii) MOTION TO FURTHER LIMIT DE-
12 BATE.—A motion to further limit debate
13 on a joint resolution in the House of Rep-
14 resentatives shall not be debatable.

15 “(iii) NO AMENDMENTS OR MOTIONS
16 TO RECOMMIT.—No amendment to or mo-
17 tion to recommit a joint resolution in the
18 House of Representatives is in order.

19 “(iv) NO MOTION TO RECONSIDER.—
20 It shall not be in order to move to recon-
21 sider the vote by which a joint resolution
22 is agreed to or disagreed to in the House
23 of Representatives.

24 “(v) APPEALS.—All appeals from the
25 decisions of the Chair relating to the appli-

1 cation of the Rules of the House of Rep-
2 resentatives to the procedure relating to a
3 joint resolution shall be decided without
4 debate.

5 “(vi) APPLICABILITY OF RULES.—Ex-
6 cept to the extent specifically provided in
7 this paragraph, consideration of a joint
8 resolution shall be governed by the Rules
9 of the House of Representatives applicable
10 to other joint resolutions in similar cir-
11 cumstances.

12 “(C) VOTE REQUIRED.—The House of
13 Representatives may only agree to a joint reso-
14 lution on the affirmative vote of $\frac{2}{3}$ of the Mem-
15 bers of the House of Representatives present
16 and voting.

17 “(5) CONTINUITY OF CONGRESS.—For purposes
18 of any time limit under this section—

19 “(A) the continuity of a session of Con-
20 gress shall be considered broken only by an ad-
21 journment of Congress sine die; and

22 “(B) the days on which either House is not
23 in session because of an adjournment of more
24 than 3 days to a day certain shall be excluded

1 in the computation of the 15-day period de-
2 scribed in paragraph (2)(A).

3 “(6) EXERCISE OF RULEMAKING POWERS.—

4 This subsection is enacted—

5 “(A) as an exercise of the rulemaking
6 power of the Senate and the House of Rep-
7 resentatives, respectively, and as such is deemed
8 a part of the rules of each House, respectively,
9 but only with respect to the procedure to be fol-
10 lowed in the House in the case of joint resolu-
11 tions, and supersedes other rules only to the ex-
12 tent that it is inconsistent with such other
13 rules; and

14 “(B) with full recognition of the constitu-
15 tional right of either House to change the rules
16 (relating to the procedure of that House) at any
17 time, in the same manner, and to the same ex-
18 tent as in the case of any other rule of that
19 House.

20 “(g) ENFORCEMENT.—A person may commence a
21 civil action under section 304 on his or her own behalf
22 against any person (including, notwithstanding any provi-
23 sion of that section, the United States, the President, the
24 Administrator, the head of any Federal department or
25 agency, and any officer or employee of the United States)

1 who is alleged to use a covered exemption a joint resolu-
2 tion for which has not been enacted in accordance with
3 this section.”.

4 (2) CONFORMING AMENDMENT.—Section
5 304(b) of the Clean Air Act (42 U.S.C. 7604(b)) is
6 amended, in the undesignated matter following para-
7 graph (2), by striking “(f)(4)” and inserting “(f)(4),
8 a civil action described in section 330(g), or”.

9 (b) OTHER AMENDMENTS.—

10 (1) EXEMPTION OF EXECUTIVE BRANCH EMIS-
11 SIONS FROM REQUIREMENTS UNDER THE CLEAN AIR
12 ACT.—Section 118(b) of the Clean Air Act (42
13 U.S.C. 7418(b)) is amended—

14 (A) by striking the sixth sentence;

15 (B) by striking the fifth sentence and in-
16 serting the following:

17 “(B) RECONSIDERATION.—The President
18 shall reconsider the need for any regulations
19 issued under subparagraph (A) at 3-year inter-
20 vals.”;

21 (C) in the fourth sentence—

22 (i) by inserting “and subject to the
23 enactment of a joint resolution under sec-
24 tion 330 authorizing the regulations” after
25 “to do so”;

1 (ii) by striking “he determines” and
2 inserting “the President determines”; and

3 (iii) by striking “In addition to any
4 such exemption of a particular emission
5 source” and inserting the following:

6 “(2) EXEMPTION FOR MILITARY PROPERTY.—

7 “(A) IN GENERAL.—In addition to any ex-
8 emption of a particular emission source under
9 paragraph (1)”;

10 (D) in the third sentence—

11 (i) by inserting “, subject to the en-
12 actment of a new joint resolution under
13 section 330 authorizing the extension,”
14 after “exemptions may”; and

15 (ii) by striking “Any exemption” and
16 inserting the following:

17 “(C) TERM; EXTENSION.—Any exemp-
18 tion”;

19 (E) in the second sentence, by striking
20 “No such extension shall be granted due to”
21 and inserting the following:

22 “(B) REQUIREMENT.—The President may
23 not propose under section 330 to use an exemp-
24 tion under subparagraph (A) as a result of a”;
25 and

1 (F) in the first sentence, by striking “(b)
2 The President” and all that follows through “he
3 determines” and inserting the following:

4 “(b) EXEMPTIONS.—

5 “(1) EXECUTIVE BRANCH.—

6 “(A) IN GENERAL.—The President may,
7 subject to the enactment of a joint resolution
8 under section 330 authorizing the exemption,
9 exempt any emission source of any department,
10 agency, or instrumentality in the executive
11 branch from compliance with such a require-
12 ment if the President determines”.

13 (2) EXEMPTION FROM FEDERAL AGENCY
14 FLEET REQUIREMENTS.—Section 248(e) of the
15 Clean Air Act (42 U.S.C. 7588(e)) is amended by
16 inserting “, subject to the enactment of a joint reso-
17 lution under section 330 authorizing the exemption”
18 before the period at the end.

19 (3) EXEMPTION FROM PHASE-OUT OF PRODUC-
20 TION AND CONSUMPTION OF CERTAIN SUB-
21 STANCES.—Section 604(f) of the Clean Air Act (42
22 U.S.C. 7671c(f)) is amended—

23 (A) in the eighth sentence, by striking “No
24 exemption shall be granted under this para-
25 graph due to” and inserting the following:

1 “(3) REQUIREMENT.—The President may not
2 propose under section 330 to issue an order under
3 this subsection as a result of a”;

4 (B) in the seventh sentence, by striking
5 “Each such additional exemption” and inserting
6 the following:

7 “(B) PERIOD.—Each additional exemption
8 under subparagraph (A)”;

9 (C) by striking the sixth sentence and in-
10 sserting the following:

11 “(2) EXTENSIONS.—

12 “(A) IN GENERAL.—The President may,
13 subject to the enactment of a new joint resolu-
14 tion under section 330 authorizing the addi-
15 tional exemption, grant additional exemptions
16 under this subsection.”;

17 (D) by striking the third, fourth, and fifth
18 sentences and inserting the following:

19 “(C) PERIOD.—An exemption under sub-
20 paragraph (A) shall be for a specified period,
21 which may not exceed 1 year.”;

22 (E) in the second sentence, by striking
23 “Such orders” and inserting the following:

24 “(B) SCOPE.—An order under subpara-
25 graph (A)”;

1 (F) in the first sentence—

2 (i) by inserting “, before seeking that
3 joint resolution,” after “if the President”;

4 (ii) by inserting “and subject to the
5 enactment of a joint resolution under sec-
6 tion 330 authorizing the order” after
7 “Montreal Protocol”; and

8 (iii) by striking “The President” and
9 inserting the following:

10 “(1) ORDERS.—

11 “(A) IN GENERAL.—The President”.

12 **SEC. 3. REPEAL OF EXEMPTION FROM SCHEDULE FOR**
13 **COMPLIANCE FOR HAZARDOUS AIR POLLUT-**
14 **ANTS.**

15 (a) IN GENERAL.—Section 112(i) of the Clean Air
16 Act (42 U.S.C. 7412(i)) is amended—

17 (1) in paragraph (3)(A), by striking “para-
18 graphs (4) through (8)” and inserting “paragraphs
19 (4) through (7)”;

20 (2) by striking paragraph (4); and

21 (3) by redesignating paragraphs (5) through
22 (8) as paragraphs (4) through (7), respectively.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 112 of the Clean Air Act (42 U.S.C.
25 7412) is amended—

22

1 (A) in subsection (d)(8)(C), in the first
2 sentence, by striking “subsection (i)(8)” and in-
3 serting “subsection (i)(7)”; and

4 (B) in subsection (j)(5)—

5 (i) in the second sentence, by striking
6 “subsection (i)(5)” and inserting “sub-
7 section (i)(4)”; and

8 (ii) in the third sentence, by striking
9 “subsection (i)(5)(A)” and inserting “sub-
10 section (i)(4)(A)”.

11 (2) Paragraph (1)(A) of section 118(b) of the
12 Clean Air Act (42 U.S.C. 7418(b)) (as amended by
13 section 2(b)(1)) is amended, in the first sentence, by
14 striking “, and an exemption from section 112 may
15 be granted only in accordance with section
16 112(i)(4)”.