

119TH CONGRESS  
1ST SESSION

# H. R. 6409

To amend the Clean Air Act to clarify standards for emissions emanating from outside of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 3, 2025

Mr. PFLUGER introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Clean Air Act to clarify standards for emissions emanating from outside of the United States, 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 “Foreign Emissions and  
5 Nonattainment Clarification for Economic Stability Act”  
6 or the “FENCES Act”.

7 **SEC. 2. EMISSIONS BEYOND CONTROL.**

8 (a) CLARIFICATION OF EMISSIONS COVERED.—Sec-  
9 tion 179B of the Clean Air Act (42 U.S.C. 7509a) is  
10 amended—

1           (1) by inserting “(regardless of whether such  
2           emissions result from human activity)” after “but  
3           for emissions emanating from outside of the United  
4           States” each place it appears; and

5           (2) in subsection (d), by inserting “(regardless  
6           of whether such emissions result from human activ-  
7           ity)” after “but for emissions emanating from out-  
8           side the United States”.

9           (b) DESIGNATIONS.—Section 179B of the Clean Air  
10          Act (42 U.S.C. 7509a) is further amended by adding at  
11          the end the following:

12          “(e) DESIGNATIONS.—Notwithstanding any other  
13          provision of law, an area within a State may not be des-  
14          ignated as a nonattainment area with respect to any new  
15          or revised primary or secondary national ambient air qual-  
16          ity standard for a pollutant if such State establishes to  
17          the satisfaction of the Administrator that such area would  
18          be in attainment with such national ambient air quality  
19          standard for such pollutant but for emissions emanating  
20          from outside of the United States (regardless of whether  
21          such emissions result from human activity).”.

22          (c) APPLICABILITY OF SANCTIONS AND FEES IF  
23          EMISSIONS BEYOND CONTROL.—The Clean Air Act (42  
24          U.S.C. 7401 et seq.) is amended by inserting after section  
25          179B the following new section:

1 **“SEC. 179C. APPLICABILITY OF SANCTIONS AND FEES IF**  
2 **EMISSIONS BEYOND CONTROL.**

3 “(a) IN GENERAL.—Notwithstanding any other pro-  
4 vision of this Act, with respect to any nonattainment area  
5 that is classified under section 181 as a Severe Area or  
6 an Extreme Area for ozone or under section 188 as a Seri-  
7 ous Area for particulate matter, no sanction or fee under  
8 section 179 or 185 shall apply with respect to a State (or  
9 an area or source therein) on the basis of a deficiency de-  
10 scribed in section 179(a), or the failure to attain a na-  
11 tional ambient air quality standard for ozone or particu-  
12 late matter by the applicable attainment date, if the State  
13 demonstrates that the State would have avoided such defi-  
14 ciency, or such standard would have been attained, but  
15 for one or more of the following:

16 “(1) Emissions emanating from outside the  
17 nonattainment area.

18 “(2) Emissions from an exceptional event (as  
19 defined in section 319(b)(1)).

20 “(3) Emissions from mobile sources to the ex-  
21 tent the State demonstrates that—

22 “(A) such emissions are beyond the control  
23 of the State to reduce or eliminate; and

24 “(B) the State is fully implementing such  
25 measures as are within the authority of the

1 State to control emissions from the mobile  
2 sources.

3 “(b) NO EFFECT ON UNDERLYING STANDARDS.—  
4 The inapplicability of sanctions or fees with respect to a  
5 State (or an area or source therein) pursuant to sub-  
6 section (a) does not affect the obligation of a State, area,  
7 source, or other entity under other provisions of this Act  
8 to establish and implement measures to attain a national  
9 ambient air quality standard for ozone or particulate mat-  
10 ter.

11 “(c) PERIODIC RENEWAL OF DEMONSTRATION.—  
12 For subsection (a) to continue to apply with respect to  
13 a State (or an area or source therein), the State involved  
14 shall renew the demonstration required by subsection (a)  
15 at least once every 5 years.”.

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