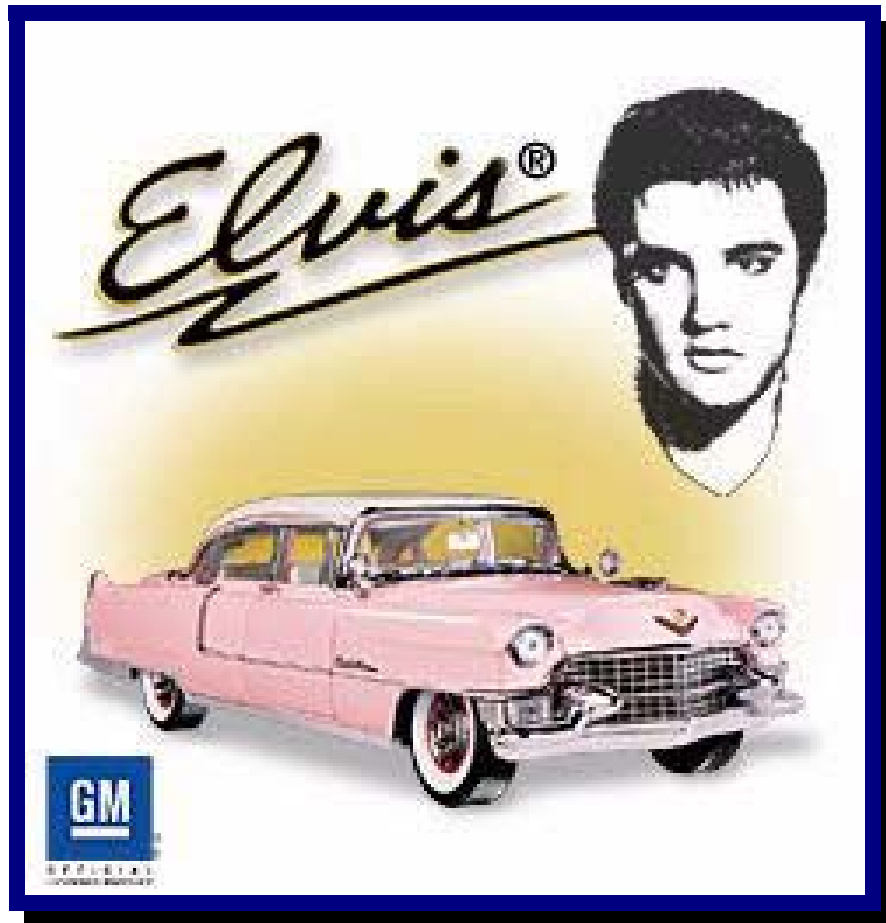


***The Right to Clean Vehicles Act:  
“Terminating the  
Interstate Commerce Clause”***



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**Prepared by the Republican House Policy Committee  
United States Representative Thaddeus G. McCotter, Chair  
110<sup>th</sup> Congress**

## ***The Inconvenient Truths of Insubstantial Benefits***

In January 2007, by Executive Order (EO) California's Governor established a Low-Carbon Fuel Standard (LCFS) far more stringent than those federally enacted. This EO exceeds the state's powers in this area under both federal law and the United States Constitution's Interstate Commerce Clause; thus, this EO's advocates are introducing federal legislation to establish a waiver for California to impose its own regulations.

The legislation, the Right to Clean Vehicles Act (RCVA), is poor public policy: it evades the preemption clause of the federal legislation which established fuel standards; and does nothing to affect climate change.

In response to the 1973-74 Arab oil embargo, the federal government enacted the Energy Policy Conservation Act of 1975, which included a section dedicated to improving automotive efficiency known as the Corporate Average Fuel Economy (CAFE) standards. It is this CAFE section which specifies the average fuel economy for a manufacturer's fleet of passenger cars or light trucks. Further, the 1975 CAFE standards legislation contained a preemption clause, which states:

“When an average fuel economy standard prescribed under this chapter is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to fuel economy standards or average fuel economy standards for automobiles covered by an average fuel economy standard under this chapter.”<sup>1</sup>

It is readily apparent California is attempting to preempt federal standards in this matter, yet some supporters argue otherwise.

Proponents of California's petition for a waiver argue the state is not altering average fuel economy standards, but rather is establishing standards for green house gases to prevent climate change. Yet, this regulation of the chief green house gas, carbon dioxide (CO<sub>2</sub>), is mathematically the same as regulation of fuel standards.

Additionally, the Deputy Executive Officer of the California Air Resources Board (CARB) admitted the effect on the temperature in California as a result of these additional fuel standards would be too small to measure. According to computer simulations performed by climatologist Tom Wigley, adoption of the California fuel standards by all fifty states would result in a global temperature decrease of less than one-tenth of a degree Fahrenheit by 2050.<sup>2</sup>

This insignificant benefit comes at a great expense. The CARB has estimated the California regulations would result in a \$1,000 increase to the cost of a new car by 2015.

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<sup>1</sup> 42 U.S. § 32919

<sup>2</sup> Taylor, Jerry, “Stop Global Warming? California's Dreaming,”  
[http://www.cato.org/pub\\_display.php?pub\\_id=2717](http://www.cato.org/pub_display.php?pub_id=2717)

Economist Jerry Taylor equates this to a \$1,000 tax on new cars to reduce global temperatures in forty years by an immeasurable amount. If California receives its waiver, this cost will be passed on to America's consumers. This stealth tax is the real duty imposed upon citizens by the California EO, though one hears little or nothing about it.

In the same article, Taylor refers to the work of a Pennsylvania State University economist, Andrew Kleit, who "calculates that a 50 percent increase in the fuel efficiency of the automobile fleet – essentially what California is requiring through these regulations – will increase net automobile emissions of volatile organic compounds by 1.9 percent, nitrogen oxides by 3.4 percent, and carbon monoxide by 4.6 percent" as a result of the reduced marginal cost of driving a car.

One of the U.S. Constitution's prescribed duties of Congress is to regulate interstate commerce. The domestic automobile manufacturers have plants and operations distributed throughout the states and the millions of cars and trucks driven by American consumers each day are an essential part of the national economy. Through a process of studies, hearings, markups, and debates, Congress, representing the interests of the American people, has established a national fuel standard which addresses the issues of conservation, as well as the continued existence of our domestic auto industry.

Unfortunately, in regards to this latter consideration, California has little if any concern; therefore, the state has through its governor's office unilaterally sought to undermine Constitutionally-prescribed Congressional authority and federal interests in this matter by establishing a state policy in conflict with federal law.

Thus, RCVA's waiver is not a matter of simply granting an exemption to California, because RCVA's waiver has ramifications for the rest of the country. If this legislation is enacted, auto manufacturers will have to meet one set of fuel standards for California and another set of fuel standards for the rest of the country. In the interests of economy and, bluntly, their own continued survival, manufacturers will, as a result, follow the stricter, California standards, which exceed those established by the federal government. In the end, this will mean the California standards have prevailed over those established by the Congress; domestic auto manufacturing employees' jobs will be further imperiled; and the Interstate Commerce Clause will be weakened; and the entirety of our national prosperity will become beholden to state and local political decisions.

These inconvenient Constitutional and economic truths are ever too high a price for an insubstantial benefit.

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