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Senate sidesteps referee, ends California's influential EV mandate

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Grant Schwab

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Washington — The U.S. Senate passed a measure Thursday canceling California regulations that would have required a 100% transition to electric vehicles for new car and truck models in many states by 2035.

The vote on the Congressional Review Act measure passed 51-44 along mostly party lines, with all Republicans present voting in favor. Michigan Democratic U.S. Sen. Elissa Slotkin of Holly joined the GOP in supporting the measure.

"Today, I voted to prevent California and the states that follow its standard from effectively banning gas-powered cars by 2035. Michigan is the auto capital of the world, and as Michigan’s U.S. Senator, I have a special responsibility to stand up for the more than one million Michiganders whose livelihoods depend on the U.S. auto industry," she said in a statement.

Other Democrats had criticized the legislation in recent weeks less for its substance and more for Republicans' decision to hold a vote at all, overruling the Senate's nonpartisan arbiter of chamber procedures along the way.

The measure, approved with a simple majority via the CRA, next moves to President Donald Trump's desk for approval. The Republican leader is all but certain to sign it into law after

repeatedly bashing "EV mandates" on the campaign trail in automotive-heavy Michigan last year.

Much of the debate over the measure Wednesday and Thursday centered around parliamentary procedures and the Senate's longstanding filibuster rules, which effectively set a 60-vote threshold for most actions to pass.

The impact on the auto industry will be immense. California has long set nation-leading standards for vehicle tailpipe emissions that force companies to consider stricter state environmental policies on top of more lax federal regulations. Now, automakers — barring a successful legal challenge to the Senate's action — will be spared from California's latest rules, its strictest yet.

Thirteen states had voluntarily adopted the rules with the goals of fighting climate change, improving air quality and pushing American automakers to build electric cars and trucks that better compete with China's surging EV prowess. Some states, however, had begun to pull back on their pledges amid [lower-than-hoped-for EV sales](#).

The measure's passage is a blow to California's rule-setting authority and a victory for companies seeking more regulatory flexibility.

Industry reaction

The U.S. auto industry [lobbied heavily](#) to have the waiver overturned, claiming that the strict rules would represent an existential threat to automakers and dealerships. The Alliance for Automotive Innovation, the top automotive lobbying group in Washington, immediately celebrated the measure's passage.

"The fact is these EV sales mandates were never achievable," said John Bozzella, president and CEO of the alliance. "Automakers warned federal and state policymakers that reaching these EV sales targets would take a miracle, especially in the coming years when the mandates get exponentially tougher."

He continued: "The Senate (and the House before it) deserve enormous credit. Instead of kicking the can down the road or waiting for regulatory failure and its consequences, they voted to restore a degree of balance to U.S. vehicle emissions regulations.

"The auto industry has invested billions in electrification and has 144 electrified models on the market right now. Again, the concerns were about the mandate — not the technology. You can be against the (California) EV mandates ... and believe that transportation is trending toward a range of electrified products like battery electric vehicles, hybrids and plug-in hybrids)."

Two top oil and gas lobbying groups, American Fuel & Petrochemical Manufacturers and the American Petroleum Institute, also applauded the Senate's action.

“Today, the United States Senate delivered a victory for American consumers, manufacturers, and U.S. energy security by voting to overturn the prior administration’s EPA rule authorizing California’s gas car ban and preventing its spread across our country,” said the group’s presidents, Chet Thompson and Mike Sommers, in a joint statement.

They continued: “Congress has made clear that California regulators have no authority to dictate what cars Americans can buy or to ban internal combustion engine vehicles. President Trump can now deliver on a major part of his campaign promise to end EV mandates in the United States.”

Environmentalists, meanwhile, denounced the move on its merits and on procedure.

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Even though Michigan is not among the states that had pledged to follow California's standards, the fate of the regulations was a question with billions of dollars at stake for the Detroit Three automakers over the next decade.

Detroit-based General Motors Co. cheered the prospect of a vote earlier in the week: “GM believes in customer choice, and we continue to focus on offering the best and broadest portfolio of vehicles on the market,” spokesperson Bill Grotz said in a Tuesday statement. “GM has long supported one national standard and consistency in emissions regulations that are aligned with market realities; the CRA measure would help ensure this.”

Dearborn-based Ford Motor Co. also praised the move. “In America, the customer chooses, and we need national emissions standards that not only drive progress but also reflect market realities,” said Ford spokesperson Robyn Jackson in a Tuesday statement.

"We also need to preserve tax policies that recognize the future of the global automotive industry is up for grabs, and that domestic manufacturing and home-grown innovation are how the United States will win," she added, a reference to automotive tax credits House Republicans [have proposed cutting](#).

Procedure particulars

The vote Thursday was not technically on the California rules themselves, which were scheduled to phase in between 2026 and 2035, but rather a Biden-era waiver from the U.S. Environmental Protection Agency allowing the Golden State to enact its newest set of emissions standards for light-duty vehicles. Lawmakers also voted to cancel the waiver allowing California's standards for heavy-duty vehicles.

The Senate canceled the waivers using the CRA, a law that gives Congress the power to cancel rules set by outgoing presidents, so long as the rules were finalized within the last 60 legislative days of a given year. Proponents of the waiver have argued that it is not a rule and therefore not subject to the CRA.

"This is not a narrow assertion of congressional authority, as the other side claims," Senate Minority Leader Chuck Schumer, D-New York, said on the Senate floor Wednesday evening ahead of procedural votes teeing up the measure's final passage. "This is an aggressive new precedent."

"Today, it's all about California emissions waivers," he said. "But tomorrow, the CRA could now be used to erase any policy from an agency that the Trump administration doesn't like at a simple majority threshold."

Senate Majority Leader John Thune, R-South Dakota, downplayed those concerns while also condemning the California policy. He said EPA waivers for California are "clearly rules in substance, given their nationwide impact and scope."

"I would love to believe the Democrats have suddenly come to the realization of the importance of the legislative filibuster, no matter how misplaced their concerns would be in this particular instance," Thune said, responding to Schumer.

The Republican added: "I think a lot of Democrats support an electric vehicle mandate and are perfectly happy to allow California to set an EV mandate for the whole country. In fact, I think they're somewhat frantic at the prospect of losing this Green New Deal policy."

Former Democratic President Joe Biden, notably, could have skirted the issue by issuing the waiver earlier in his presidency. But Biden's wait until the final days of his term left the waiver vulnerable to a CRA challenge.

Crucially, all CRA measures require only a simple majority in both the House and Senate. That gave the California waiver vote an easier pathway to success in the Senate, where most actions require 60 votes and Republicans hold a 53-47 majority.

The U.S. House [voted 246-164](#) earlier in May to pass a CRA measure to overturn the California waiver. Three Michigan House lawmakers were among 35 Democrats who voted for the measure: U.S. Reps. Shri Thanedar of Detroit, Hillary Scholten of Grand Rapids and Kristen McDonald Rivet of Bay City.

Republican U.S. Rep. John James of Shelby Township was a [leader in that effort](#). "I have nothing against EVs. I would love to build every EV in Michigan, but my problem is with top-down, comply-or-die regulations dictated by the federal government," he told The Detroit News in a September interview.

Michigan's senior Democratic U.S. Sen Gary Peters of Bloomfield Township opposed the measure Thursday.

"People should be able to buy the car that best meets their own needs, whether it's electric or gas-powered," Peters said Tuesday after Republicans announced plans for the vote. "But in this case, Republicans are just using this issue as a trojan horse to blow up the Senate's rules and make it easier to ram through the Trump administration's harmful agenda and overturn policies they oppose, like protections for workers and Americans' access to health care."

California's next move

California and environmental groups are likely to mount legal challenges. The head of the state's emissions regulator, the California Air Resources Board, forcefully spoke against the congressional action Thursday and signaled the agency would fight back.

CARB Chair Liane Randolph said [in a statement](#): "California profoundly disagrees with today's unconstitutional, illegal and foolish vote attempting to undermine critical clean air protections. It's an assault on states' rights the federal administration claims to support that puts national air quality standards out of reach and will have devastating effects for the 150 million Americans who breathe unhealthy air every day.

"These actions are contrary to the text of the Congressional Review Act, as recognized by the nonpartisan U.S. Government Accountability Office and the Senate Parliamentarian. California will pursue every available remedy to challenge these actions and defend our right to protect the public from dangerous air pollution. Turning the clock back on both cleaner combustion engine requirements and zero-emission technology is an attack on clean air."

"This short-sighted political move is another strike against the long-term competitiveness of the U.S. auto industry in a global market that is rapidly advancing toward cleaner combustion technology as well as zero-emission vehicles," Randolph said. "These actions throw uncertainty into the middle of an ongoing vehicle certification process. Despite the market disruption

brought on by the federal government, California remains steadfast in our commitment to work with manufacturers to keep moving toward a cleaner transportation system, and we will have more guidance in the coming days."

Democratic Gov. Gavin Newsom convened a special state legislative session in November to focus on "bolstering California legal resources" related to environmental issues, among others, against actions from the incoming Trump administration.

"The freedoms we hold dear in California are under attack — and we won't sit idle. California has faced this challenge before, and we know how to respond," he said in a [press release](#) at the time.

Michael Buschbacher, a partner at the law firm Boyden Gray PLLC, said California is "pretty limited" in its options for legal recourse. "The CRA has a provision that says that, basically, anything Congress does under the CRA is not subject to judicial review," he said in a phone interview ahead of the vote.

Buschbacher, who represents clients seeking to block pro-EV regulations, also questioned California's ability to get a waiver for similar rules later on, if or when Democrats return to power in Washington.

"The CRA also says that federal agencies cannot do something substantially similar to a rule that gets CRA'ed. That phrase has not really been tested in court," the attorney said. "The way I would interpret it would be: California can't get a waiver from the EPA for electric vehicle mandates."

He also predicted that the "notoriously retaliatory" state of California might use regulatory strategies, like certifications for compliance with highly complicated national on-board diagnostic standards, to "make companies miserable" if automakers do not adhere to its preferred emissions standards.

"If that kind of thing happens," Buschbacher said, "I would fully expect industry and probably the federal government to sue to stop that."

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