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Legislation Seeks to Preserve Consumer Choice on New Car Purchases

Bills Would Curtail or Eliminate DNREC's Ability to Adopt Regulations Seeking to Restrict and Eliminate the Sale of New, Fuel-Powered Vehicles

Two new bills being circulated for sponsorship in the Delaware General Assembly seek to curtail or eliminate the ability of the Department of Natural Resources and Environmental Control (DNREC) to adopt new regulations aimed at eliminating the sale of new gasoline and diesel cars, trucks, and SUVs.

The process began in March 2022 when Gov. John Carney directed state environmental officials to adopt (promulgate) California's Advanced Clean Car II (ACCI) regulations in The First State. Under the controversial rules, 35% of all new light vehicles sold in Delaware will be mandated to be zero-emission vehicles starting in Fall 2025 (vehicle model year 2026). The percentage of mandated ZEV sales -- predominately battery-electric vehicles (EVs) -- rises sharply each following year. By Fall 2034, the proposed rules would require all new vehicle sales to be ZEVs, banning the sale or registration of new fuel-powered light vehicles.

Last Friday, DNREC published the proposed regulations in the Delaware Register of Regulations -- a key milestone in promulgating them. A virtual public hearing on the regulations is set for April 26.

Citizens have already provided significant feedback regarding the "EV sales mandate" regulations. A total of approximately 1,500 people took part in five recent public meetings held statewide to discuss the issue, with opinions overwhelmingly opposing the proposal.

The same attitudes were in evidence in a February phone survey by Ragnar Research. The poll of 300 likely voters throughout Delaware revealed that a majority (73%) opposed banning the sale of new cars powered by gasoline and diesel. The study's margin of error was $\pm 6\%$.

"We've heard your voices loud and clear," said State Senate Minority Whip Brian Pettyjohn (R-Georgetown). "The one thing that has been made clear is that you do not want the electric vehicle (sales) mandate. Most of you want the choice as to what vehicle you purchase and to select the option that fits your needs."

State House Minority Leader Mike Ramone (R-Pike Creek South) echoed that sentiment, saying that Delawareans seeking to purchase a new vehicle should be free to select the car, truck, or SUV that best meets their families' needs and means. "The regulations DNREC is proposing would eliminate our

citizens' ability to choose," he said. "It's a terrible slippery slope. I just don't think the people in my district and our state are ready for this type of zealous [governmental] overreach."

Both legislators said one of the main criticisms they have heard from constituents is that such a sweeping change, carrying the weight of law, could be imposed on citizens without the approval of their elected officials in the General Assembly. In response, Sen. Pettyjohn and Rep. Ramone are jointly sponsoring two new bills, one starting in the House and the other in the Senate.

The first bill would only allow DNREC to adopt the Advanced Clean Car II regulations with the consent of the General Assembly. The second measure would remove DNREC's ability to promulgate the regulations by removing its authority to adopt any rules dealing with vehicle sales mandates. Both pieces of legislation would be retroactive to March 1, 2023.

"I think it is important that there is accountability and that our citizens' voices are heard," Sen. Pettyjohn said.

The legislators said enacting either bill would accomplish the goal of reining in DNREC's regulatory authority and returning power to Delawareans.

"DNREC should be subservient to our citizens, not the other way around," Sen. Pettyjohn said. "A couple of things that we cherish here in Delaware are liberty and independence, so much so that it is part of our state motto. "I do not think there is much liberty or independence in a mandate that is coming from an unelected body here in Delaware, the Department of Natural Resources, pretty much telling people that you have to buy a certain vehicle, even if it does not fit their needs."

Sen. Pettyjohn said he has asked DNREC to hold in-person public hearings in all three counties instead of the single virtual hearing they currently have planned. He said if the agency does not do more to allow citizens to express their wishes, he and Rep. Ramone will take steps to collect and share public opinion on this issue.

"This impacts citizens in every legislative district in this state," Rep. Ramone said. "It cuts across class and geography, although it arguably may fall hardest on those with the least. Thousands of families live in urban areas, or in apartments or condos where EV chargers don't exist and cannot be easily or inexpensively installed by residents. Some households of modest means that depend on cheaper used cars to meet their transportation needs will see those vehicles climb dramatically in price as the EV sales mandates reduce supply and increase demand. We should be able to continue building on the progress we've made to improve environmental quality without imposing onerous hardships on the people we serve."

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