

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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TO THE MEMBERS OF THE UNITED STATES CONGRESS:

The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, emphatically supports Congressional efforts to provide a bridge loan to the domestic automobile industry for operations until the 111th Congress can address the issue more fully. However, the Chamber is deeply disturbed with a provision in the draft legislation that prohibits automobile manufacturers from "participating in, pursuing, funding, or supporting in any way, any legal challenge (existing or contemplated) to State laws concerning greenhouse gas emission standards." This provision is blackmail, pure and simple, and has major constitutional implications for the automobile manufacturers and third parties with which they affiliate.

The scope of this provision is so broad that it would not only deny the manufacturers their basic constitutional right to use the federal courts to redress what they believe are unwise or unfair policy decisions, but it could conceivably also deny the automobile manufacturers the right to participate with trade associations (such as the U.S. Chamber), or environmental groups, in litigation for or against such policies. Not only would the terms of the bridge loan remove the automobile manufacturers' constitutional rights, but the terms could force these unrelated third parties to forfeit *their* constitutional rights to sue as well, because they would be "supported in any way" if the automobile manufacturers are part of their membership.

The slippery slope that this provision would create would have great implications. For example, some environmental groups have publicly justified the denial of the right to sue on state greenhouse gas emission standards because the automobile manufacturers will receive federal money under the bridge loan. However, these same environmental groups receive federal grants from the federal government, yet they too enjoy the right to sue the U.S. government. Last year alone, environmental groups brought more than 400 lawsuits challenging federal polices.

The Chamber urges that this provision be removed from otherwise vital legislation. The denial of the right to sue would set a chilling precedent—denial of automobile manufacturers' rights to equal protection, not to mention ripping the heart out of the First Amendment right to petition the government for a redress of grievances—and is a step Congress should not be considering. Citizens should not be coerced into choosing between needed federal assistance and the exercise of their constitutional rights. While the economy is mired in recession and the financial condition of the auto manufacturers is precarious, the U.S. still has a Constitution, and the American people demand their constitutional rights.

Sincerely,



R. Bruce Josten