

1526

2009-2010 Regular Sessions

I N   S E N A T E

February 2, 2009

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Introduced by Sens. MORAHAN, FUSCHILLO, HANNON, LAVALLE -- read twice  
and ordered printed, and when printed to be committed to the Committee  
on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to  
greenhouse gas pollution control

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Legislative findings.     The Intergovernmental Panel on  
2     Climate Change, awarded the 2007 Nobel Peace Prize, determined that  
3     burning coal, oil and gas has led to higher temperatures that are  
4     already impacting physical and biological systems. The panel also  
5     projected global temperatures would rise more rapidly if greenhouse  
6     gases are not abated. The panel concluded that reducing emissions 80  
7     percent below current emissions by mid-century would prevent the worst  
8     impacts of climate change.  
9     The impact of such climate change poses a serious threat to the  
10    economic well-being, public health, natural resources and environment of  
11    New York. The potential adverse impacts of climate change include the  
12    exacerbation of air quality problems, a reduction in the quality and  
13    supply of water to the state, a rise in sea levels which could poten-  
14    tially impact coastal businesses, residents and infrastructure, damage  
15    to marine ecosystems and the natural environment, and an increase in the  
16    incidences of infectious diseases, asthma, and other human health-relat-  
17    ed problems.  
18    National and international actions are necessary to fully address the  
19    threat of climate change. Action taken by New York and other states to  
20    reduce emissions of greenhouse gases will have far-reaching effects by  
21    encouraging the federal government, and other countries to act including  
22    encouraging the development of sustainable, non-polluting technologies  
23    such as solar, wind, geothermal and ocean currents.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD01893-01-9

S 2. Article 19 of the environmental conservation law is amended by adding a new title 13 to read as follows:

## TITLE 13

## GREENHOUSE GAS POLLUTION CONTROL

SECTION 19-1301. SHORT TITLE.

19-1303. DEFINITIONS.

19-1305. GREENHOUSE GAS REPORTING.

19-1307. GREENHOUSE GAS LIMITS.

S 19-1301. SHORT TITLE.

THIS TITLE MAY BE CITED AS THE "GREENHOUSE GAS POLLUTION CONTROL ACT".

S 19-1303. DEFINITIONS.

WHEN USED IN THIS TITLE:

1. "GREENHOUSE GAS" MEANS CARBON DIOXIDE, METHANE, NITROUS OXIDE, HYDROFLUOROCARBONS, PERFLUOROCARBONS, SULFUR HEXAFLUORIDE, AND ANY OTHER GAS DETERMINED BY THE DEPARTMENT TO BE A SIGNIFICANT CONTRIBUTOR TO CLIMATE CHANGE.

2. "GREENHOUSE GAS EMISSION SOURCE" MEANS ANY SOURCE OR CATEGORY OF SOURCES OF GREENHOUSE GAS EMISSIONS AND SHALL INCLUDE, BUT NOT BE LIMITED TO EMISSIONS:

(A) ASSOCIATED WITH FOSSIL FUELS USED IN THE STATE BY ENTITIES THAT ARE MANUFACTURERS AND DISTRIBUTORS OF FOSSIL FUELS, INCLUDING, BUT NOT LIMITED TO, OIL REFINERIES, OIL STORAGE FACILITIES, AND NATURAL GAS PIPELINES;

(B) FROM ANY UTILITY GENERATING OR DELIVERING ELECTRICITY CONSUMED IN THE STATE, WHETHER THE ELECTRICITY IS GENERATED IN THE STATE, OR GENERATED OUTSIDE THE STATE AND IMPORTED INTO THE STATE, AND ACCOUNTING FOR TRANSMISSION AND DISTRIBUTION LINE LOSSES; AND

(C) FROM ANY ADDITIONAL ENTITIES THAT ARE EMITTERS OF GREENHOUSE GASES, AS DETERMINED BY THE DEPARTMENT, AND APPROPRIATE TO ENABLE THE DEPARTMENT TO MONITOR COMPLIANCE WITH THE EMISSIONS LIMITS FOR GREENHOUSE GASES ESTABLISHED PURSUANT TO THIS TITLE.

S 19-1305. GREENHOUSE GAS REPORTING.

1. NO LATER THAN MAY 1, 2010, THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS REQUIRING ANNUAL GREENHOUSE GAS EMISSIONS REPORTING FROM GREENHOUSE GAS EMISSION SOURCES. THE REGULATIONS SHALL:

(A) INCLUDE GREENHOUSE GAS EMISSIONS FROM ALL GREENHOUSE GAS EMISSION SOURCES EXPRESSED IN TONS OF CARBON DIOXIDE EQUIVALENTS;

(B) ENSURE RIGOROUS AND CONSISTENT ACCOUNTING OF EMISSIONS, AND PROVIDE REPORTING TOOLS AND FORMATS TO ENSURE COLLECTION OF NECESSARY DATA; AND

(C) ENSURE THAT EACH GREENHOUSE GAS EMISSION SOURCE MAINTAINS COMPREHENSIVE EMISSIONS RECORDS OF ANY GREENHOUSE GAS REPORTED FOR AT LEAST FIVE YEARS.

2. THE DEPARTMENT SHALL:

(A) PERIODICALLY REVIEW AND UPDATE ITS EMISSION REPORTING REQUIREMENTS AT LEAST EVERY FIVE YEARS; AND

(B) MAKE REASONABLE EFFORTS TO MAKE ITS REPORTING REGULATIONS CONSISTENT WITH INTERNATIONAL, FEDERAL AND OTHER STATES' GREENHOUSE GAS EMISSION REPORTING PROGRAMS.

3. NO LATER THAN JANUARY 1, 2012, AND EVERY YEAR THEREAFTER, THE DEPARTMENT SHALL ISSUE A REPORT ON:

(A) THE ANNUAL GREENHOUSE GAS EMISSIONS FROM ALL GREENHOUSE GAS EMISSION SOURCES, INCLUDING THE RELATIVE CONTRIBUTION OF EACH GREENHOUSE GAS EMISSION SOURCE TO STATEWIDE GREENHOUSE GAS EMISSIONS; AND

1 (B) THE PROGRESS MADE BY THE DEPARTMENT IN ACHIEVING THE REQUIREMENTS  
2 OF SECTION 19-1307 OF THIS TITLE.

3 S 19-1307. GREENHOUSE GAS LIMITS.

4 1. NO LATER THAN JANUARY 1, 2015, THE DEPARTMENT, AFTER A PUBLIC HEAR-  
5 ING, SHALL PROMULGATE RULES AND REGULATIONS SETTING AN ENFORCEABLE LIMIT  
6 ON THE AGGREGATE LEVEL OF GREENHOUSE GAS EMISSIONS FROM ALL GREENHOUSE  
7 GAS EMISSION SOURCES PROVIDED; HOWEVER, THE AGGREGATE LIMIT SHALL NOT BE  
8 GREATER THAN THE AGGREGATE LEVEL OF GREENHOUSE GAS EMISSIONS FOR CALEN-  
9 DAR YEAR 2000.

10 2. ON JANUARY 1, 2016 THE LIMIT ESTABLISHED IN SUBDIVISION ONE OF THIS  
11 SECTION SHALL BE REDUCED BY 2.3 PERCENT. EVERY YEAR ON JANUARY FIRST  
12 THEREAFTER, THE LIMIT OF THE PREVIOUS YEAR SHALL BE REDUCED BY AN ADDI-  
13 TIONAL 2.3 PERCENT OF THE LIMIT ORIGINALLY ESTABLISHED BY SUBDIVISION  
14 ONE OF THIS SECTION.

15 3. ON JANUARY 1, 2051, AND EACH YEAR THEREAFTER, THE LIMIT SHALL  
16 REMAIN AT EIGHTY PERCENT BELOW THE LIMIT ESTABLISHED IN SUBDIVISION ONE  
17 OF THIS SECTION.

18 4. ANY RULE OR REGULATION THE COMMISSIONER ADOPTS TO COMPLY WITH THIS  
19 SECTION MUST:

20 (A) NOT PLACE OR INCREASE AN ADDITIONAL ENVIRONMENTAL OR HEALTH BURDEN  
21 ON A COMMUNITY THAT HAS A SIGNIFICANT LEVEL OF REGULATED AIR CONTAM-  
22 INANT SOURCE EMISSIONS WITHIN THE COMMUNITY AS COMPARED WITH THE COUNTY  
23 AVERAGE; AND

24 (B) BE COMPATIBLE WITH OTHER EMISSIONS REDUCTIONS PROGRAMS.

25 S 3. This act shall take effect immediately.