

1184--A

Cal. No. 282

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. MAZIARZ, ESPAILLAT, GRISANTI, LATIMER, NOZZOLIO, PARKER, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the environmental conservation law, in relation to bioheating fuel requirements

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

- 1 Section 1. The environmental conservation law is amended by adding a
2 new section 19-0327 to read as follows:
3 S 19-0327. BIOHEATING FUEL REQUIREMENTS.
4 (1) DEFINITIONS. FOR THE PURPOSE OF THIS SECTION, THE FOLLOWING TERMS
5 SHALL HAVE THE FOLLOWING MEANINGS:
6 (A) "BIODIESEL" SHALL MEAN A FUEL, DESIGNATED B100, THAT MEETS THE
7 SPECIFICATIONS OF THE AMERICAN SOCIETY FOR TESTING AND MATERIALS DESIGNATION D6751 COMPOSED EXCLUSIVELY OF MONO-ALKYL ESTERS OF LONG CHAIN
8 FATTY ACIDS DERIVED FROM FEEDSTOCK.
9 (B) "BIOHEATING FUEL" SHALL MEAN A FUEL COMPRISED OF BIODIESEL BLENDED
10 WITH PETROLEUM HEATING OIL THAT MEETS THE SPECIFICATIONS OF THE AMERICAN
11 SOCIETY FOR TESTING AND MATERIALS DESIGNATION D396 OR OTHER SPECIFICATIONS AS DETERMINED BY THE COMMISSIONER.
12 (C) "HEATING OIL" SHALL MEAN PETROLEUM OIL REFINED FOR THE PURPOSE OF
13 USE AS FUEL FOR COMBUSTION IN A SPACE AND/OR WATER HEATING SYSTEM THAT
14 MEETS THE SPECIFICATIONS OF THE AMERICAN SOCIETY FOR TESTING AND MATERIALS DESIGNATION D396 OR OTHER SPECIFICATIONS AS DETERMINED BY THE
15 COMMISSIONER.
16 (D) "FEEDSTOCK" SHALL MEAN SOYBEAN OIL, OIL FROM ANNUAL COVERCROPS,
17 ALGAL OIL, BIOGENIC WASTE OILS, FATS OR GREASES, OR NON-FOOD GRADE CORN
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EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

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1 OIL, PROVIDED THAT THE COMMISSIONER MAY, BY RULES AND REGULATIONS, MODI-
2 FY THE DEFINITION OF FEEDSTOCK BASED ON THE VEGETABLE OILS, ANIMAL FATS
3 OR CELLULOSIC BIOMASS LISTED IN TABLE 1 OF 40 C.F.R. S 80.1426.

4 (2) ON AND AFTER OCTOBER FIRST, TWO THOUSAND FOURTEEN, ALL HEATING OIL
5 SOLD FOR USE IN ANY BUILDING WITHIN THE COUNTIES OF NASSAU, ROCKLAND,
6 SUFFOLK, WESTCHESTER AND THE COUNTIES OF THE CITY OF NEW YORK SHALL BE
7 BIOHEATING FUEL THAT CONTAINS AT LEAST TWO PERCENT BIODIESEL.

8 (3) ON AND AFTER JULY FIRST, TWO THOUSAND FIFTEEN, ALL HEATING OIL
9 SOLD FOR USE IN ANY BUILDING IN THE STATE SHALL BE BIOHEATING FUEL THAT
10 CONTAINS AT LEAST TWO PERCENT BIODIESEL.

11 (4) THE GOVERNOR MAY, BY ISSUING AN EXECUTIVE ORDER, TEMPORARILY
12 SUSPEND THE APPLICABILITY OF THIS SECTION AT ANY TIME BASED ON THE
13 GOVERNOR'S DETERMINATION, AFTER CONSULTING WITH THE NEW YORK STATE ENER-
14 GY RESEARCH AND DEVELOPMENT AUTHORITY AND THE DEPARTMENT, THAT MEETING
15 THE REQUIREMENT OF SUBDIVISION TWO OF THIS SECTION IS NOT FEASIBLE DUE
16 TO LACK OF ADEQUATE SUPPLY OF BIODIESEL OR THAT MEETING THE REQUIREMENT
17 WOULD RESULT IN UNDUE FINANCIAL HARDSHIP TO CONSUMERS.

18 (5) THE REQUIREMENTS OF THIS SECTION SHALL NOT: (A) PROHIBIT THE SALE
19 AND USE OF BIOHEATING FUEL WITH THE SAME OR ANY GREATER PERCENTAGE OF
20 BIODIESEL BLENDED WITH HEATING OIL, OR THE SALE AND USE OF ONE HUNDRED
21 PERCENT BIODIESEL, FOR SPACE AND/OR WATER HEATING PURPOSES IN THE STATE;
22 AND (B) PREEMPT ANY LAWS OF THE CITY OF NEW YORK WITH RESPECT TO
23 MANDATED PERCENTAGE LEVELS OF BIODIESEL BLENDS WITH HEATING OIL PROVIDED
24 THAT SUCH LAWS REQUIRE THE SAME OR GREATER PERCENTAGE OF BIODIESEL
25 BLENDED WITH HEATING OIL AS REQUIRED BY THIS SECTION.

26 S 2. This act shall take effect immediately.