

1208

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the executive law, the general business law and the tax law, in relation to alternate generated power capacity; and providing for the repeal of certain provisions upon expiration thereof

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

1     Section 1. Subdivision 3 of section 21 of the executive law is amended  
2     by adding a new paragraph k to read as follows:  
3     K. DESIGNATE RETAIL MOTOR FUEL, DIESEL MOTOR FUEL AND KEROSENE  
4     STATIONS THROUGHOUT EACH DESIGNATED VULNERABLE COMMUNITY IN THE STATE  
5     THAT SHALL BE REQUIRED TO BE CAPABLE OF OPERATING ITS FUEL PUMPS,  
6     DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS AND PAYMENT ACCEPTANCE EQUIP-  
7     MENT USING AN ALTERNATE GENERATED POWER SOURCE. SUCH ALTERNATE GENERATED  
8     POWER SOURCE SHALL BE AVAILABLE NO LATER THAN TWENTY-FOUR HOURS AFTER A  
9     MAJOR DISASTER. EACH DESIGNATED STATION SHALL BE EQUIPPED WITH APPROPRI-  
10    ATE WIRING AND TRANSFER SWITCH WHICH SHALL BE INSTALLED BY A CERTIFIED  
11    ELECTRICAL CONTRACTOR. EACH DESIGNATED STATION SHALL KEEP A COPY OF A  
12    THE DOCUMENTATION OF SUCH INSTALLATION ON SITE OR AT ITS CORPORATE HEAD-  
13    QUARTERS. EACH DESIGNATED STATION SHALL KEEP A WRITTEN STATEMENT ATTEST-  
14    ING TO THE PERIODIC TESTING AND ENSURED OPERATIONAL CAPACITY OF THE  
15    EQUIPMENT. THE REQUIRED DOCUMENTATION SHALL BE MADE AVAILABLE, UPON  
16    REQUEST, TO THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES AND  
17    THE DIRECTOR OF EMERGENCY MANAGEMENT AGENCY. THE CRITERIA TO BE USED BY  
18    THE COMMISSION IN DESIGNATING SUCH RETAIL STATIONS AND THE LOCATION  
19    THEREOF INCLUDE BUT ARE NOT LIMITED TO:  
20    (1) LOCATIONS NEAR MAJOR VEHICULAR TRANSPORTATION ROUTES OR DESIGNATED  
21    EVACUATION ROUTES TO FACILITATE THE EVACUATION OF PERSONS AWAY FROM THE

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

LBD04410-01-3

DESIGNATED DISASTER AREA OR TOWARDS THE SAFETY OF EMERGENCY TEMPORARY SHELTERS;

(2) FACILITY LOCATIONS THAT, DUE TO THE TOPOGRAPHY OF THE AREA, DISTANCE TOWARDS OR AWAY FROM ANY BODY OF WATER, WETLAND OR PHYSICAL FEATURE, OR ANY OTHER CRITERIA ESTABLISHED BY THE COMMISSION WOULD REMAIN VIABLE LOCATIONS THAT COULD SAFELY AND EFFECTIVELY OPERATE BEFORE, DURING AND AFTER A DESIGNATED DECLARATION OF AN EMERGENCY; AND

(3) LOCATIONS NEAR TRANSPORTATION HUBS AND OTHER SUITABLE AREAS WITHIN EACH REGION AND EACH COMMUNITY, THAT AFTER THE OCCURRENCE OF SUCH DISASTER, COULD BE VALUABLE TO ASSIST IN REGIONAL OR LOCAL RESCUE, RESPONSE, RECOVERY, MITIGATE ACTIVITIES, INCLUDING BUT NOT LIMITED TO, MAKING AVAILABLE MOTOR FUEL TO EMERGENCY VEHICLES, EMERGENCY RESPONDERS, LAW ENFORCEMENT OR TRUCKS AND BUSES USED TO TRANSPORT RESCUE, RESPONSE AND RECOVERY MATERIAL OR PERSONNEL, AND TO SUPPORT THE LOCAL FUEL NEEDS OF EACH COMMUNITY FOR HEAT, COOKING, PORTABLE HOME GENERATOR, LAW ENFORCEMENT AND OTHER CRITICAL COMMUNITY NEEDS.

S 2. The general business law is amended by adding a new section 399-eee to read as follows:

S 399-EEE. ALTERNATE GENERATED POWER CAPACITY FOR MOTOR FUEL DISPENSING FACILITIES. 1. FOR PURPOSES OF THIS SECTION THE FOLLOWING DEFINITIONS APPLY:

(A) "MOTOR FUEL TERMINAL FACILITY" AS DEFINED IN PARAGRAPH (K) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THIS ARTICLE.

(B) "WHOLESALE" AS DEFINED IN PARAGRAPH (L) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THIS ARTICLE.

(C) "MAJOR DISASTER" SHALL MEAN OCCURRENCE OR IMMINENT THREAT OF WIDESPREAD OR SEVERE DAMAGE, INJURY, OR LOSS OF LIFE OR PROPERTY RESULTING FROM ANY NATURAL OR MAN-MADE CAUSES, INCLUDING, BUT NOT LIMITED TO, FIRE, FLOOD, EARTHQUAKE, HURRICANE, TORNADO, HIGH WATER, LANDSLIDE, MUDSLIDE, WIND, STORM, WAVE ACTION, VOLCANIC ACTIVITY, EPIDEMIC, AIR CONTAMINATION, TERRORISM, CYBER EVENT, BLIGHT, DROUGHT, INFESTATION, EXPLOSION, RADIOLOGICAL ACCIDENT, NUCLEAR, CHEMICAL, BIOLOGICAL, OR BACTERIOLOGICAL RELEASE, WATER CONTAMINATION, BRIDGE FAILURE OR BRIDGE COLLAPSE.

(D) "MOTOR FUEL RETAIL OUTLET" AS DEFINED IN PARAGRAPH (H) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THIS ARTICLE.

(E) "SUBSTANTIALLY RENOVATED" SHALL MEAN A RENOVATION THAT RESULTS IN AN INCREASE OF GREATER THAN FIFTY PERCENT IN THE ASSESSED VALUE OF THE MOTOR FUEL RETAIL OUTLET.

2. BY SEPTEMBER FIRST, TWO THOUSAND FOURTEEN EACH MOTOR FUEL TERMINAL FACILITY AND EACH WHOLESALE WHICH SELLS MOTOR FUEL IN THE STATE SHALL BE CAPABLE OF OPERATING ITS DISTRIBUTION LOADING RACKS USING AN ALTERNATE GENERATED POWER SOURCE FOR A MINIMUM OF SEVENTY-TWO HOURS. PENDING A POST-DISASTER EXAMINATION OF THE EQUIPMENT BY THE OPERATOR TO DETERMINE ANY EXTENUATING DAMAGE THAT WOULD RENDER IT UNSAFE TO USE, THE FACILITY SHALL HAVE SUCH ALTERNATE GENERATED POWER SOURCE AVAILABLE FOR OPERATION NO LATER THAN TWENTY-FOUR HOURS AFTER A MAJOR DISASTER. INSTALLATION OF APPROPRIATE WIRING, INCLUDING A TRANSFER SWITCH, SHALL BE DONE BY A CERTIFIED ELECTRICAL CONTRACTOR. EACH BUSINESS THAT IS SUBJECT TO THIS SECTION SHALL KEEP A COPY OF THE DOCUMENTATION OF SUCH INSTALLATION ON SITE OR AT ITS CORPORATE HEADQUARTERS. EACH BUSINESS SHALL KEEP A WRITTEN STATEMENT ATTESTING TO THE PERIODIC TESTING AND ENSURED OPERATIONAL CAPACITY OF THE EQUIPMENT. THE REQUIRED DOCUMENTATION SHALL BE MADE AVAILABLE, UPON REQUEST, TO THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES AND THE DIRECTOR OF THE COUNTY EMERGENCY MANAGEMENT AGENCY.

1 3. EACH NEWLY CONSTRUCTED OR SUBSTANTIALLY RENOVATED MOTOR FUEL  
2 OUTLET, FOR WHICH A CERTIFICATE OF OCCUPANCY IS ISSUED ON OR AFTER  
3 SEPTEMBER FIRST, TWO THOUSAND THIRTEEN SHALL BE PRE-WIRED WITH AN APPRO-  
4 PRIATE TRANSFER SWITCH, AND CAPABLE OF OPERATING FUEL PUMPS, DISPENSING  
5 EQUIPMENT, LIFE SAFETY SYSTEMS, AND PAYMENT ACCEPTANCE EQUIPMENT USING  
6 AN ALTERNATE GENERATED POWER SOURCE. LOCAL BUILDING INSPECTORS SHALL  
7 INCLUDE THIS EQUIPMENT AND OPERATIONS CHECK IN THE NORMAL INSPECTION  
8 PROCESS BEFORE ISSUING A CERTIFICATE OF OCCUPANCY ON SITE OR AT ITS  
9 CORPORATE HEADQUARTERS. IN ADDITION, EACH RETAIL OUTLET MUST KEEP A  
10 WRITTEN STATEMENT ATTESTING TO THE PERIODIC TESTING OF AND ENSURED OPER-  
11 ATIONAL CAPACITY OF THE EQUIPMENT. THE REQUIRED DOCUMENTS MUST BE MADE  
12 AVAILABLE, UPON REQUEST, TO THE DIVISION OF HOMELAND SECURITY AND EMER-  
13 GENCY MANAGEMENT AND THE DIRECTOR OF THE COUNTY EMERGENCY MANAGEMENT  
14 AGENCY.

15 4. (A) SUBDIVISION TWO OF THIS SECTION, AND PARAGRAPH K OF SUBDIVISION  
16 THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE LAW APPLY TO ANY SELF  
17 SERVICE, FULL SERVICE OR COMBINATION SELF-SERVICE AND FULL SERVICE MOTOR  
18 FUEL RETAIL OUTLET REGARDLESS OF WHETHER THE FUEL RETAIL OUTLET IS  
19 LOCATED ON THE GROUNDS OF, OR IS OWNED BY, ANOTHER RETAIL BUSINESS  
20 ESTABLISHMENT THAT DOES NOT ENGAGE IN THE BUSINESS OF SELLING MOTOR  
21 FUEL.

22 (B) SUBDIVISION TWO OF THIS SECTION, AND PARAGRAPH K OF SUBDIVISION  
23 THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE LAW SHALL NOT APPLY TO:

24 (I) AN AUTOMOBILE DEALER;

25 (II) A PERSON WHO OPERATES A FLEET OF MOTOR VEHICLES;

26 (III) A PERSON WHO SELLS MOTOR FUEL EXCLUSIVELY TO A FLEET OF MOTOR  
27 VEHICLES; OR

28 (IV) A MOTOR FUEL RETAIL OUTLET THAT HAS A WRITTEN AGREEMENT WITH A  
29 PUBLIC HOSPITAL, IN A FORM APPROVED BY THE DIVISION OF EMERGENCY MANAGE-  
30 MENT, WHEREIN THE PUBLIC HOSPITAL AGREES TO PROVIDE THE MOTOR FUEL  
31 RETAIL OUTLET WITH AN ALTERNATIVE MEANS OF POWER GENERATION ONSITE SO  
32 THAT THE OUTLET'S FUEL PUMPS MAY BE OPERATED IN THE EVENT OF A POWER  
33 OUTAGE.

34 5. (A) EACH CORPORATION OR OTHER ENTITY THAT OWNS TEN OR MORE MOTOR  
35 FUEL RETAIL OUTLETS LOCATED WITHIN A SINGLE COUNTY SHALL MAINTAIN AT  
36 LEAST ONE PORTABLE GENERATOR THAT IS CAPABLE OF PROVIDING AN ALTERNATE  
37 GENERATED POWER SOURCE AS REQUIRED UNDER SUBDIVISION TWO OF THIS SECTION  
38 FOR EVERY TEN OUTLETS. IF AN ENTITY OWNS MORE THAN TEN OUTLETS OR A  
39 MULTIPLE OF TEN OUTLETS PLUS AN ADDITIONAL SIX OUTLETS, THE ENTITY MUST  
40 PROVIDE AN ADDITIONAL GENERATOR TO ACCOMMODATE SUCH ADDITIONAL OUTLETS.  
41 EACH PORTABLE GENERATOR MUST BE STORED WITHIN THIS STATE AND MUST BE  
42 AVAILABLE FOR USE IN AN AFFECTED LOCATION WITHIN TWENTY-FOUR HOURS AFTER  
43 THE DISASTER.

44 (B) FOR PURPOSES OF THIS SECTION, OWNERSHIP OF A MOTOR FUEL RETAIL  
45 OUTLET IS THE OWNER OF RECORD OF THE FUEL STORAGE SYSTEMS OPERATING AT  
46 THE LOCATION.

47 S 3. The tax law is amended by adding a new section 187-s to read as  
48 follows:

49 S 187-S. TAX CREDIT FOR ALTERNATE GENERATED STORAGE. (A) (1) FOR EACH  
50 TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN  
51 AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN THERE SHALL BE ALLOWED  
52 AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO  
53 FIFTY PERCENT OF THE AMOUNT PAID OR INCURRED DURING THE TAXABLE YEAR FOR  
54 THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE AT  
55 A MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE AS REQUIRED BY SUBDIVI-  
56 SION TWO OF SECTION THREE HUNDRED NINETY-NINE-EEE OF THE GENERAL BUSI-

NESS LAW AND PARAGRAPH K OF SUBDIVISION THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE LAW.

(2) FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE AT A MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE THAT IS NOT SUBJECT TO THE REQUIREMENTS UNDER SUBDIVISION TWO OF SECTION THREE HUNDRED NINETY-NINE-EEE OF THE GENERAL BUSINESS LAW AND PARAGRAPH K OF SUBDIVISION THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE LAW, NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS.

(B) IF AN ALTERNATE GENERATED POWER SOURCE FOR WHICH A CREDIT IS ALLOWED PURSUANT TO THIS SECTION IS THEREAFTER SOLD, RETURNED TO THE VENDOR, OR OTHERWISE REMOVED FROM SERVICE BY THE TAXPAYER WITHIN ONE YEAR FROM THE DATE THE ALTERNATE GENERATED POWER SOURCE WAS PLACED IN SERVICE, THE AMOUNT OF CREDIT ALLOWED BY THIS SECTION FOR THE PURCHASE AND INSTALLATION OF THAT ALTERNATE GENERATED POWER SOURCE SHALL BE RECAPTURED BY ADDING THAT CREDIT AMOUNT TO THE TAX OF THE TAXPAYER FOR THE TAXABLE YEAR IN WHICH THE ALTERNATE GENERATED POWER SOURCE IS SOLD OR REMOVED.

(C) IN THE CASE WHERE THE TAX CREDIT IS NOT EXHAUSTED IN THE TAXABLE YEAR ANY EXCESS MAY BE CARRIED OVER IN THE FOLLOWING YEAR, AND FIVE SUCCEEDING YEARS IF NECESSARY, AND MAY BE DEDUCTED FROM THE TAX IMPOSED BY THIS ARTICLE UNTIL SUCH CREDIT IS EXHAUSTED.

S 4. Section 210 of the tax law is amended by adding a new subdivision 46 to read as follows:

46. TAX CREDIT FOR ALTERNATE GENERATED STORAGE. (A) (1) FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE AT A MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE AS REQUIRED BY SUBDIVISION TWO OF SECTION THREE HUNDRED NINETY-NINE-EEE OF THE GENERAL BUSINESS LAW AND PARAGRAPH K OF SUBDIVISION THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE LAW.

(2) FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE AT A MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE THAT IS NOT SUBJECT TO THE REQUIREMENTS UNDER SUBDIVISION TWO OF SECTION THREE HUNDRED NINETY-NINE-EEE OF THE GENERAL BUSINESS LAW AND PARAGRAPH K OF SUBDIVISION THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE LAW, NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS.

(B) THE FOLLOWING DEFINITIONS APPLY FOR PURPOSES OF THIS SECTION:

(1) "ALTERNATE GENERATED POWER SOURCE" MEANS AN ELECTRICAL GENERATOR THAT IS RATED BY THE MANUFACTURER TO GENERATE AT LEAST THIRTY KILOWATTS OF ELECTRICITY AND WHOSE SOLE FUNCTION IS TO AUTOMATICALLY PROVIDE ELECTRIC POWER WHEN ELECTRIC POWER FROM A UTILITY SERVICE IS INTERRUPTED.

(2) "MOTOR FUEL RETAIL OUTLET" AS DEFINED IN PARAGRAPH (H) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THE GENERAL BUSINESS LAW AND IS OWNED BY A TAXPAYER WITH WORLDWIDE GROSS RECEIPTS OF LESS THAN ONE MILLION DOLLARS FOR ANY TAXABLE YEAR FOR WHICH THE CREDIT

AUTHORIZED BY THIS SECTION IS CLAIMED. THE GROSS RECEIPTS OF ANY TRADES OR BUSINESSES THAT ARE TREATED AS RELATED UNDER SECTION 267, 318 OR 707 OF THE INTERNAL REVENUE CODE SHALL BE AGGREGATED FOR PURPOSES OF DETERMINING WORLDWIDE GROSS RECEIPTS.

(3) "GROSS RECEIPTS" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION ONE HUNDRED EIGHTY-TWO-A OF THIS CHAPTER.

(C) THE DEPRECIABLE BASIS OF ANY ALTERNATE GENERATED POWER SOURCE SHALL BE REDUCED BY THE AMOUNT OF ANY CREDIT ALLOWABLE UNDER THIS SECTION.

(D) IF AN ALTERNATE GENERATED POWER SOURCE FOR WHICH A CREDIT IS ALLOWED PURSUANT TO THIS SECTION IS THEREAFTER SOLD, RETURNED TO THE VENDOR, OR OTHERWISE REMOVED FROM SERVICE BY THE TAXPAYER WITHIN ONE YEAR FROM THE DATE THE ALTERNATE GENERATED POWER SOURCE WAS PLACED IN SERVICE, THE AMOUNT OF CREDIT ALLOWED BY THIS SECTION FOR THE PURCHASE AND INSTALLATION OF THAT ALTERNATE GENERATED POWER SOURCE SHALL BE RECAPTURED BY ADDING THAT CREDIT AMOUNT TO THE TAX OF THE TAXPAYER FOR THE TAXABLE YEAR IN WHICH THE ALTERNATE GENERATED POWER SOURCE IS SOLD OR REMOVED.

(E) IN THE CASE WHERE THE TAX CREDIT IS NOT EXHAUSTED IN THE TAXABLE YEAR ANY EXCESS MAY BE CARRIED OVER IN THE FOLLOWING YEAR, AND FIVE SUCCEEDING YEARS IF NECESSARY, AND MAY BE DEDUCTED FROM THE TAX IMPOSED BY THIS ARTICLE UNTIL SUCH CREDIT IS EXHAUSTED.

S 5. Section 606 of the tax law is amended by adding a new subsection (u) to read as follows:

(U) TAX CREDIT FOR ALTERNATE GENERATED STORAGE. (1) (A) FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE AT A MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE AS REQUIRED BY SUBDIVISION TWO OF SECTION THREE HUNDRED NINETY-NINE-EEE OF THE GENERAL BUSINESS LAW AND PARAGRAPH K OF SUBDIVISION THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE LAW.

(B) FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE AT A MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE THAT IS NOT SUBJECT TO THE REQUIREMENTS UNDER SUBDIVISION TWO OF SECTION THREE HUNDRED NINETY-NINE-EEE OF THE GENERAL BUSINESS LAW AND PARAGRAPH K OF SUBDIVISION THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE LAW, NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS.

(2) THE FOLLOWING DEFINITIONS APPLY FOR PURPOSES OF THIS SECTION:

(A) "ALTERNATE GENERATED POWER SOURCE" MEANS AN ELECTRICAL GENERATOR THAT IS RATED BY THE MANUFACTURER TO GENERATE AT LEAST THIRTY KILOWATTS OF ELECTRICITY AND WHOSE SOLE FUNCTION IS TO AUTOMATICALLY PROVIDE ELECTRIC POWER WHEN ELECTRIC POWER FROM A UTILITY SERVICE IS INTERRUPTED.

(B) "MOTOR FUEL RETAIL OUTLET" AS DEFINED IN PARAGRAPH (H) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THE GENERAL BUSINESS LAW AND IS OWNED BY A TAXPAYER WITH WORLDWIDE GROSS RECEIPTS OF LESS THAN ONE MILLION DOLLARS FOR ANY TAXABLE YEAR FOR WHICH THE CREDIT AUTHORIZED BY THIS SECTION IS CLAIMED. THE GROSS RECEIPTS OF ANY TRADES OR BUSINESSES THAT ARE TREATED AS RELATED UNDER SECTION 267, 318 OR 707

1 OF THE INTERNAL REVENUE CODE SHALL BE AGGREGATED FOR PURPOSES OF DETER-  
2 MINING WORLDWIDE GROSS RECEIPTS.

3 (C) "GROSS RECEIPTS" SHALL HAVE THE SAME MEANING AS SET FORTH IN  
4 SECTION ONE HUNDRED EIGHTY-TWO-A OF THIS CHAPTER.

5 (3) THE DEPRECIABLE BASIS OF ANY ALTERNATE GENERATED POWER SOURCE  
6 SHALL BE REDUCED BY THE AMOUNT OF ANY CREDIT ALLOWABLE UNDER THIS  
7 SECTION.

8 (4) IF AN ALTERNATE GENERATED POWER SOURCE FOR WHICH A CREDIT IS  
9 ALLOWED PURSUANT TO THIS SECTION IS THEREAFTER SOLD, RETURNED TO THE  
10 VENDOR, OR OTHERWISE REMOVED FROM SERVICE BY THE TAXPAYER WITHIN ONE  
11 YEAR FROM THE DATE THE ALTERNATE GENERATED POWER SOURCE WAS PLACED IN  
12 SERVICE, THE AMOUNT OF CREDIT ALLOWED BY THIS SECTION FOR THE PURCHASE  
13 AND INSTALLATION OF THAT ALTERNATE GENERATED POWER SOURCE SHALL BE  
14 RECAPTURED BY ADDING THAT CREDIT AMOUNT TO THE TAX OF THE TAXPAYER FOR  
15 THE TAXABLE YEAR IN WHICH THE ALTERNATE GENERATED POWER SOURCE IS SOLD  
16 OR REMOVED.

17 (5) IN THE CASE WHERE THE TAX CREDIT IS NOT EXHAUSTED IN THE TAXABLE  
18 YEAR ANY EXCESS MAY BE CARRIED OVER IN THE FOLLOWING YEAR, AND FIVE  
19 SUCCEEDING YEARS IF NECESSARY, AND MAY BE DEDUCTED FROM THE TAX IMPOSED  
20 BY THIS ARTICLE UNTIL SUCH CREDIT IS EXHAUSTED.

21 S 6. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
22 of the tax law is amended by adding a new clause (xxxv) to read as  
23 follows:

24 (XXXV) ALTERNATE GENERATED STORAGE	AMOUNT OF CREDIT UNDER
25 CREDIT UNDER SUBSECTION (U)	SUBDIVISION FORTY-SIX OF
26	SECTION TWO HUNDRED TEN

27 S 7. This act shall take effect immediately; provided the provisions  
28 of sections three, four, five and six of this act shall expire and be  
29 deemed repealed January 1, 2018.