

3293--A

2013-2014 Regular Sessions

I N   S E N A T E

January 31, 2013

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Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to the use of ultra low sulfur diesel fuel and best available technology by the state

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

1     Section 1. Section 19-0323 of the environmental conservation law, as  
2     added by chapter 629 of the laws of 2006, subdivisions 3 and 5 as  
3     amended by section 1 of part U of chapter 58 of the laws of 2013, and  
4     subdivisions 6, 7 and 8 as renumbered by section 1 of part C of chapter  
5     59 of the laws of 2010, is amended to read as follows:  
6     S 19-0323. Use of ultra low sulfur diesel fuel and best available tech-  
7                                    nology by the state.  
8     1. As used in this section, the terms:  
9     a. "Ultra low sulfur diesel fuel" means diesel fuel having sulfur  
10    content of 0.0015 per cent of sulfur or less.  
11    b. "Heavy duty vehicle" or "vehicle" means any on and off-road vehicle  
12    powered by diesel fuel and having a gross vehicle weight of greater than  
13    8,500 pounds, except that those vehicles defined in section 101 of the  
14    vehicle and traffic law, paragraph 2 of schedule E and paragraph (a) of  
15    schedule F of subdivision 7 of section 401 of such law, and vehicles  
16    specified in subdivision 13 of section 401 of such law, and farm type  
17    tractors and all terrain type vehicles used exclusively for agricultural  
18    or mowing purposes, or for snow plowing, other than for hire, farm  
19    equipment, including self-propelled machines used exclusively in grow-  
20    ing, harvesting or handling farm produce, and self-propelled caterpillar

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

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1 or crawler-type equipment while being operated on the contract site, and  
2 timber harvesting equipment such as harvesters, wood chippers, forward-  
3 ers, log skidders, and other processing equipment used exclusively off  
4 highway for timber harvesting and logging purposes, shall not be deemed  
5 heavy duty vehicles for purposes of this section. This term shall not  
6 include vehicles that are specially equipped for emergency response by  
7 the department, office of emergency management, sheriff's office of the  
8 department of finance, police department or fire department.

9 c. "Best available retrofit technology" means technology, verified by  
10 the United States environmental protection agency for reducing the emis-  
11 sion of pollutants that achieves reductions in particulate matter emis-  
12 sions at the highest classification level for diesel emission control  
13 strategies that is applicable to the particular engine and application.  
14 Such technology shall also, at a reasonable cost, achieve the greatest  
15 reduction in emissions of nitrogen oxides at such particulate matter  
16 reduction level and shall in no event result in a net increase in the  
17 emissions of either particulate matter or nitrogen oxides.

18 d. "Reasonable cost" means that such technology does not cost greater  
19 than 30 percent more than other technology applicable to the particular  
20 engine and application that falls within the same classification level  
21 for diesel emission control strategies, as set forth in paragraph c of  
22 this subdivision, when considering the cost of the strategies, them-  
23 selves, and the cost of installation.

24 2. Any diesel powered heavy duty vehicle that is owned by, operated by  
25 [or on behalf of,] or leased by a state agency and state and regional  
26 public authority shall be powered by ultra low sulfur diesel fuel.

27 3. Any diesel powered heavy duty vehicle that is owned by, operated by  
28 [or on behalf of,] or leased by a state agency and state and regional  
29 public authority with more than half of its governing body appointed by  
30 the governor shall utilize the best available retrofit technology for  
31 reducing the emission of pollutants. The commissioner shall promulgate  
32 regulations for the implementation of this subdivision specifying that  
33 all vehicles covered by this subdivision shall have best available  
34 retrofit technology on or before December 31, [2014] 2015.

35 This subdivision shall not apply to any vehicle subject to a lease or  
36 public works contract entered into or renewed prior to the effective  
37 date of this section.

38 4. In addition to other provisions for regulations in this section,  
39 the commissioner shall promulgate regulations as necessary and appropri-  
40 ate to carry out the provisions of this act including but not limited to  
41 provision for waivers upon written finding by the commissioner that (a)  
42 best available retrofit technology for reducing the emissions of pollu-  
43 tants as required by subdivision 3 of this section is not available for  
44 a particular vehicle or class of vehicles and (b) that ultra low sulfur  
45 diesel fuel is not available.

46 5. In addition to any waiver which may be issued pursuant to subdivi-  
47 sion four of this section, the department shall issue a waiver to a  
48 state agency[, ] OR a state or regional public authority, [or a person  
49 operating any diesel-powered heavy duty vehicle on behalf of a state  
50 agency, state or regional public authority,] upon a request in a form  
51 acceptable to the department for a waiver from the provisions of subdivi-  
52 sion three of this section for a vehicle engine provided that such  
53 vehicle engine will cease to be used in the state on or before December  
54 thirty-first, two thousand fourteen. Any waiver issued pursuant to this  
55 subdivision shall expire when a state agency[, a state or regional  
56 public authority, or a person operating any diesel-powered heavy duty

1 vehicle on behalf of a state agency,] OR A state or regional public  
2 authority ceases to use the engine in the state but not later than  
3 December thirty-first, two thousand [fourteen] EIGHTEEN.

4 6. This section shall not apply where federal law or funding precludes  
5 the state from imposing the requirements of this section.

6 7. On or before January 1, 2008 and every year thereafter, the commis-  
7 sioner shall report to the governor and legislature on the use of ultra  
8 low sulfur diesel fuel [and the use of the best available retrofit tech-  
9 nology as required under this section]. ON OR BEFORE JANUARY 1, 2016  
10 AND EVERY YEAR THEREAFTER, THE COMMISSIONER SHALL INCLUDE IN THE REPORT  
11 TO THE GOVERNOR AND LEGISLATURE THE USE OF THE BEST AVAILABLE RETROFIT  
12 TECHNOLOGY AS REQUIRED UNDER THIS SECTION. The information contained in  
13 this report shall include, but not be limited to, for each state agency  
14 and public authority covered by this section: (a) the total number of  
15 diesel fuel-powered motor vehicles owned or operated by such agency and  
16 authority; (b) the number of such motor vehicles that were powered by  
17 ultra low sulfur diesel fuel; (c) the total number of diesel fuel-pow-  
18 ered motor vehicles owned or operated by such agency and authority  
19 having a gross vehicle weight rating of more than 8,500 pounds; (d) the  
20 number of such motor vehicles that utilized the best available retrofit  
21 technology, including a breakdown by motor vehicle model, engine year  
22 and the type of technology used for each vehicle; (e) the number of such  
23 motor vehicles that are equipped with an engine certified to the appli-  
24 cable 2007 United States environmental protection agency standard for  
25 particulate matter as set forth in section 86.007-11 of title 40 of the  
26 code of federal regulations or to any subsequent United States environ-  
27 mental protection agency standard for particulate matter that is at  
28 least as stringent; and (f) all waivers, findings, and renewals of such  
29 findings, which, for each waiver, shall include, but not be limited to,  
30 the quantity of diesel fuel needed to power diesel fuel-powered motor  
31 vehicles owned or operated by such agency and authority; specific infor-  
32 mation concerning the availability of ultra low sulfur diesel fuel.

33 8. The department shall, to the extent practicable, coordinate with  
34 regions which have proposed or adopted heavy duty emission inspection  
35 programs to promote regional consistency in such programs.

36 S 2. This act shall take effect immediately.