

STATE OF NEW YORK

5593

2017-2018 Regular Sessions

IN ASSEMBLY

February 10, 2017

Introduced by M. of A. SCHIMMINGER -- read once and referred to the Committee on Environmental Conservation

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, 5 and 7 as
3 amended by section 1 of part X of chapter 58 of the laws of 2016, and
4 subdivisions 6 and 8 as renumbered by section 1 of part C of chapter 59
5 of the laws of 2010, is amended to read as follows:
6 § 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~~] percent 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~~] one
14 hundred one of the vehicle and traffic law, paragraph [~~2~~] two of sched-
15 ule E and paragraph (a) of schedule F of subdivision [~~7~~] seven of
16 section [~~401~~] four hundred one of such law, and vehicles specified in
17 subdivision [~~13~~] thirteen of section [~~401~~] four hundred one of such law,
18 and farm type tractors and all terrain type vehicles used exclusively
19 for agricultural or mowing purposes, or for snow plowing, other than for
20 hire, farm equipment, including self-propelled machines used exclusively
21 in growing, harvesting or handling farm produce, and self-propelled
22 caterpillar or crawler-type equipment while being operated on the
23 contract site, and timber harvesting equipment such as harvesters, wood
24 chippers, forwarders, log skidders, and other processing equipment used

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

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1 exclusively off highway for timber harvesting and logging purposes,
2 shall not be deemed heavy duty vehicles for purposes of this section.
3 This term shall not include vehicles that are specially equipped for
4 emergency response by the department, office of emergency management,
5 sheriff's office of the department of finance, police department or fire
6 department.

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

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

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

25 3. Any diesel powered heavy duty vehicle that is owned by, operated by
26 ~~[or on behalf of,]~~ or leased by a state agency and state and regional
27 public authority with more than half of its governing body appointed by
28 the governor shall utilize the best available retrofit technology for
29 reducing the emission of pollutants. The commissioner shall promulgate
30 regulations for the implementation of this subdivision specifying that
31 all vehicles covered by this subdivision shall have best available
32 retrofit technology on or before December ~~[31, 2017]~~ thirty-first, two
33 thousand nineteen.

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

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

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

1 public authority ceases to use the engine in the state but not later
2 than December thirty-first, two thousand ~~[eighteen]~~ twenty-two.

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

5 7. On or before January ~~[1, 2008]~~ first, two thousand eight and every
6 year thereafter, the commissioner shall report to the governor and
7 legislature on the use of ultra low sulfur diesel fuel. On or before
8 January ~~[1, 2018]~~ first, two thousand twenty and every year thereafter,
9 the commissioner shall include in the report to the governor and legis-
10 lature the use of the best available retrofit technology as required
11 under this section. The information contained in this report shall
12 include, but not be limited to, for each state agency and public author-
13 ity covered by this section: (a) the total number of diesel fuel-powered
14 motor vehicles owned or operated by such agency and authority; (b) the
15 number of such motor vehicles that were powered by ultra low sulfur
16 diesel fuel; (c) the total number of diesel fuel-powered motor vehicles
17 owned or operated by such agency and authority having a gross vehicle
18 weight rating of more than 8,500 pounds; (d) the number of such motor
19 vehicles that utilized the best available retrofit technology, including
20 a breakdown by motor vehicle model, engine year and the type of technol-
21 ogy used for each vehicle; (e) the number of such motor vehicles that
22 are equipped with an engine certified to the applicable 2007 United
23 States environmental protection agency standard for particulate matter
24 as set forth in section 86.007-11 of title 40 of the code of federal
25 regulations or to any subsequent United States environmental protection
26 agency standard for particulate matter that is at least as stringent;
27 and (f) all waivers, findings, and renewals of such findings, which, for
28 each waiver, shall include, but not be limited to, the quantity of
29 diesel fuel needed to power diesel fuel-powered motor vehicles owned or
30 operated by such agency and authority; specific information concerning
31 the availability of ultra low sulfur diesel fuel.

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

35 § 2. This act shall take effect immediately.