

STATE OF NEW YORK

6298--A

2023-2024 Regular Sessions

IN SENATE

April 12, 2023

Introduced by Sens. GOUNARDES, COMRIE -- 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 enacting the advanced clean fleets law

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 1 of section 19-0306-b of the environmental
2 conservation law, as amended by chapter 109 of the laws of 2022, is
3 amended to read as follows:

4 1. It shall be a goal of the state that one hundred percent of new
5 passenger cars and trucks offered for sale or lease, or sold, or leased,
6 for registration in the state shall be zero-emissions by two thousand
7 thirty-five. It shall be a further goal of the state that fifty percent
8 of medium-duty and heavy-duty vehicles offered for sale or lease, or
9 sold, or leased, for registration in the state be zero-emissions by two
10 thousand thirty-one, that eighty percent of medium-duty and heavy-duty
11 vehicles offered for sale or lease, or sold, or leased, for registration
12 in the state be zero-emissions by two thousand thirty-six, and that one
13 hundred percent of medium-duty and heavy-duty vehicles offered for sale
14 or lease, or sold, or leased, for registration in the state be zero-em-
15 issions by two thousand [~~forty-five~~] forty-one for all operations where
16 feasible. It shall be further a goal of the state to transition to one
17 hundred percent zero-emissions from new off-road vehicles and equipment
18 purchased beginning in two thousand thirty-five, where feasible.

19 § 2. Paragraph b of subdivision 2 of section 19-0306-b of the environ-
20 mental conservation law, as amended by chapter 109 of the laws of 2022,
21 is amended to read as follows:

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

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b. Medium-duty and heavy-duty vehicle regulations requiring increasing volumes of new zero-emissions trucks and buses offered for sale or lease, or sold, or leased, for registration and operated in the state towards the target of fifty percent of the sold or leased fleet transitioning to zero-emissions vehicles by two thousand thirty-one, eighty percent of the sold or leased fleet transitioning to zero-emissions vehicles by two thousand thirty-six, and one hundred percent of the sold or leased fleet transitioning to zero-emissions vehicles by two thousand ~~[forty-five]~~ forty-one everywhere feasible.

§ 3. The environmental conservation law is amended by adding a new section 19-0306-c to read as follows:

§ 19-0306-c. Advanced clean fleets law for medium- and heavy-duty vehicles.

1. This section shall be known and may be cited and referred to as the "advanced clean fleets law."

2. As used in this section, the following terms shall have the following meanings:

(a) "Break-bulk goods" shall mean goods that are stowed on a drayage truck in individually counted units.

(b) "Drayage truck" shall mean any in-use on-road vehicle that transports cargo, such as containerized bulk or break-bulk goods, between a maritime terminal and intermodal rail facility, distribution center, or other near-port location.

(c) "Fleet operator" or "operator" shall mean the individual or business entity, whether in partnership, limited liability company, joint stock company, corporation, or any other form, which owns a truck, or a broker, which, as a principal or agent, sells, offers to sell, or negotiates for truck transportation by a motor carrier for compensation. For the purposes of this paragraph, "truck" shall refer to a medium-duty vehicle, as defined in paragraph (i) of this subdivision, a heavy-duty vehicle, as defined in paragraph (e) of this subdivision, a drayage truck, as defined in paragraph (b) of this subdivision, or any truck, as defined in paragraph (n) of this subdivision, owned, operated, or controlled as part of a high priority fleet, as defined in paragraph (f) of this subdivision.

(d) "Gross vehicle weight rating" or "GVWR" shall mean the weight of a vehicle consisting of the unladen weight and the maximum carrying capacity recommended by the manufacturer of such vehicle.

(e) "Heavy-duty vehicle" shall mean a vehicle with a gross vehicle weight rating greater than twenty thousand six hundred pounds.

(f) "High priority fleets" shall mean trucking fleets which are owned, operated, or controlled by entities with fifty million dollars or more in annual gross revenue and that own, operate, or control at least one vehicle with a gross vehicle weight rating of greater than eight thousand five hundred pounds, or trucking fleets which are owned, operated, or controlled by entities which own, operate, or control at least fifty vehicles with a gross vehicle weight rating of greater than eight thousand five hundred pounds.

(g) "Intermodal rail facility" shall mean a facility owned or operated by a public or private entity that receives both drayage trucks and locomotives.

(h) "Maritime terminal" shall mean wharves, bulkheads, quays, piers, docks, and other berthing locations and adjacent storage or adjacent areas and structures associated with the primary movement of cargo and goods from vessel to shore, or shore to vessel, including structures which are devoted to receiving, handling, holding, consolidating, and

1 loading or delivery of waterborne shipments or passengers, including
2 areas devoted to the maintenance of the terminal or equipment.

3 (i) "Medium-duty vehicle" shall mean a vehicle with a gross vehicle
4 weight rating between fourteen thousand one pounds and twenty thousand
5 six hundred pounds.

6 (j) "Motor carrier" shall mean a common and contract carrier of prop-
7 erty by motor vehicle and a common carrier of household goods by motor
8 vehicle.

9 (k) "Near zero emissions" shall refer to a vehicle that uses zero
10 emission technologies or technologies that provide a pathway to zero
11 emission operations or a vehicle that incorporates other technologies
12 that significantly reduce exhaust emissions of any greenhouse gas,
13 criteria pollutant, or precursor pollutant under any and all possible
14 operational modes and conditions.

15 (l) "On-road" shall mean a vehicle that is designed to be driven on
16 public highways, as such term is defined in section one hundred thirty-
17 four of the vehicle and traffic law, and that is registered or capable
18 of being registered pursuant to article fourteen of the vehicle and
19 traffic law.

20 (m) "Zero emission" shall refer to a vehicle powered by means of a
21 battery or fuel cell or a combination thereof, or another source of
22 power, that produces zero exhaust emissions of any greenhouse gas,
23 criteria pollutant, or precursor pollutant under any and all possible
24 operational modes and conditions.

25 (n) "Truck" shall mean a vehicle with a gross vehicle weight rating of
26 greater than eight thousand five hundred pounds.

27 3. No later than one year after the effective date of this section,
28 all fleet operators, as defined in paragraph (c) of subdivision two of
29 this section, shall be required to compile and deliver a report to the
30 department which shall detail:

31 (a) the number and type of contracts the fleet operator may have to
32 deliver items or perform work in the state of New York;

33 (b) what types of facilities the fleet operator uses to store such
34 operator's medium- and heavy-duty vehicle fleet as a home base, and
35 whether such fleet is primarily fueled at such home base;

36 (c) whether such storage facility is owned or leased by the fleet
37 operator;

38 (d) whether such storage facility contains refueling infrastructure
39 and the type of such infrastructure;

40 (e) the body and fuel type of each vehicle of the operator's fleet;

41 (f) how many vehicles in the operator's fleet are zero emission vehi-
42 cles or near zero emission vehicles compared to non-zero emission or
43 non-near zero emission vehicles;

44 (g) the weight class of each vehicle in the operator's fleet;

45 (h) the estimated daily and annual mileage of each vehicle in the
46 operator's fleet;

47 (i) whether the operator's fleet has a predictable usage pattern, and
48 if so, a description of such pattern;

49 (j) whether the operator's fleet tows a trailer and if so, a
50 description of the weight and type of such trailer;

51 (k) whether the operator's fleet is registered outside the state of
52 New York, and if so, where such fleet is registered;

53 (l) the percentage of an operator's fleet being driven on public high-
54 ways compared to the percentage parked at a facility on an average day;

55 (m) the average annual mileage of the operator's fleet;

1 (n) whether the operator's fleet is equipped with a global positioning
2 system or other form of electronic mileage tracking;
3 (o) how many years after purchase or lease a vehicle in the operator's
4 fleet is typically kept;
5 (p) whether the fleet operator is the owner of the fleet or is
6 dispatching vehicles as a broker of such fleet; and
7 (q) any other information the department deems necessary in order to
8 enforce the provisions of this section.

9 4. (a) Commencing in the year two thousand twenty-eight, no fleet
10 operator shall newly purchase or lease a drayage truck in this state
11 unless such truck is a zero emission or near zero emission vehicle.

12 (b) Commencing in the year two thousand thirty-six, no fleet operator
13 shall maintain or drive a drayage truck in this state unless it is a
14 zero emission or near zero emission vehicle.

15 (c) Commencing in the year two thousand forty-one, no fleet operator
16 shall maintain or drive a medium- or heavy-duty vehicle in this state
17 unless it is a zero emission or near zero emission vehicle.

18 (d) Commencing in the year two thousand twenty-eight, no high-priority
19 fleet operator may newly purchase or lease a truck in this state unless
20 such truck is a zero emission or near zero emission vehicle. Also
21 commencing in the year two thousand twenty-eight, all high priority
22 fleet operators must replace a non-zero emission or non-near zero emis-
23 sion truck that has reached the end of its useful life, defined as
24 occurring when either (i) the model year for the engine of such truck
25 has exceeded eighteen years, or (ii) such truck has been driven more
26 than eight hundred thousand miles, whichever is sooner, with a zero
27 emission or near zero emission truck. High priority fleet operators
28 shall not be required to replace a non-zero emission or non-near zero
29 emission truck that has reached the end of its useful life, however, if
30 such operator has determined that a replacement for such truck is unnec-
31 essary because of a reduction in the size of such operator's fleet.

32 (e) (i) The commissioner may, in their discretion, exempt fleet oper-
33 ators from the zero emission or near zero emission fleet requirements
34 described in this subdivision if no such zero emission or near zero
35 emission vehicle model is available for purchase or lease which meets
36 the needs of such fleet operator, in which case the fleet operator shall
37 be able to purchase or lease an alternative vehicle model, including
38 models with an internal combustion engine, where necessary. The
39 commissioner shall promulgate rules and/or regulations to effectuate the
40 provisions of this paragraph.

41 (ii) The department shall maintain, on a publicly accessible website,
42 a list of vehicle models, sortable by manufacturer and model year, which
43 are not yet available as a zero emission or near zero emission vehicle.

44 5. (a) The department shall establish a navigation program to provide
45 information and assistance to fleet operators relating to the provisions
46 of this section. Such program shall include assistance by a natural
47 person by phone and email as well as the posting of information on a
48 publicly accessible website.

49 (b) The navigation program shall provide the following:

50 (i) information about available zero emission and near zero emission
51 models of vehicles for fleet operators covered under this section;

52 (ii) information about available programs to assist fleet operators in
53 the purchasing or lease of zero emission and near zero emission vehi-
54 cles, such as but not limited to, vouchers, rebates, competitive grants,
55 low-cost financing, or any other program offered by any public or
56 private entity; and

(iii) any other information the department deems relevant in order to compel compliance with the provisions of this section.

(c) The department shall conduct an outreach and education campaign to inform fleet operators of the provisions of this section.

6. No later than two years after the effective date of this section, and each year thereafter, the department shall issue a report on the state of the trucking industry as it relates to the provisions of this section. Such report shall include:

(a) the number of fleet operators covered by this section and an aggregate description of such operators' fleets, including the number of drayage trucks and medium- and heavy-duty vehicles across the state;

(b) the aggregate percentage of vehicles owned, operated, or controlled by fleet operators covered under this section which are zero emission or near zero emission vehicles compared to non-zero emission or non-near zero emission vehicles;

(c) an aggregate description of the purchase or lease of new vehicles by fleet operators and whether such vehicles are zero emission or near zero emission vehicles compared to non-zero emission or non-near zero emission vehicles;

(d) an aggregate description, by number and percentage, of non-zero emission or non-near zero emission vehicles covered by this section which were not able to be replaced with zero emission or near zero emission vehicles due to such vehicle model's unavailability, as well as such model's anticipated date, if any, of availability by any vehicle manufacturer;

(e) the estimated aggregate annual mileage of fleet operators covered by this section;

(f) the estimated aggregate annual tailpipe emissions of fleet operators covered by this section, based on the mileage reported in paragraph (e) of this subdivision;

(g) recommendations for any legislative changes to this section; and

(h) any other information the department deems necessary to include as a description of the trucking industry's compliance with this act.

Such report shall be delivered on an annual basis to the temporary president of the senate, the speaker of the assembly, and the governor. Such report shall also be posted for public review in a clear and conspicuous manner on the department's website.

7. (a) Any fleet operator who violates the provisions of subdivision four of this section shall be liable, in the case of a first violation, for a penalty not less than five hundred dollars nor more than eighteen thousand dollars for said violation; provided, however, that the commissioner may in their discretion suspend such penalty for a period of one calendar year. If at the end of such calendar year, such fleet operator remains noncompliant with subdivision four of this section, such penalty shall be reinstated and become immediately due and payable to the commissioner.

(b) In the case of a second or any further violation, the liability shall be for a penalty not to exceed twenty-six thousand dollars for said violation.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.