

2009-2010 Regular Sessions

I N S E N A T E

January 22, 2009

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and
when printed to be committed to the Committee on Environmental Conser-
vation

AN ACT to amend the environmental conservation law and the agriculture
and markets law, in relation to the sale of diesel fuel

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

- 1 Section 1. Section 19-0107 of the environmental conservation law is
2 amended by adding a new subdivision 25 to read as follows:
3 25. "BIODIESEL FUEL" MEANS A RENEWABLE, BIODEGRADABLE, MONO ALKYL
4 ESTER COMBUSTIBLE LIQUID FUEL DERIVED FROM AGRICULTURAL PLANT OILS OR
5 ANIMAL FATS AND THAT MEETS AMERICAN SOCIETY FOR TESTING AND MATERIALS
6 SPECIFICATION D6751 FOR BIODIESEL FUEL (B100) BLEND STOCK FOR DISTILLATE
7 FUELS AS UPDATED.
8 S 2. Subdivision 2 of section 19-0301 of the environmental conserva-
9 tion law is amended by adding a new paragraph f to read as follows:
10 F. COOPERATE WITH THE DEPARTMENT OF AGRICULTURE AND MARKETS TO ENSURE
11 AN EFFICIENT TRANSITION TO THE USE OF BIODIESEL FUEL AS THE LUBRICATION
12 ADDITIVE FOR LOW-SULFUR DIESEL FUEL.
13 S 3. Subdivision 1 of section 192-c of the agriculture and markets law
14 is amended by adding a new paragraph k to read as follows:
15 K. "BIODIESEL FUEL" MEANS A RENEWABLE, BIODEGRADABLE, MONO ALKYL ESTER
16 COMBUSTIBLE LIQUID FUEL DERIVED FROM AGRICULTURAL PLANT OILS OR ANIMAL
17 FATS AND THAT MEETS AMERICAN SOCIETY FOR TESTING AND MATERIALS SPECIFI-
18 CATION D6751 FOR BIODIESEL FUEL (B100) BLEND STOCK FOR DISTILLATE FUELS
19 AS UPDATED.
20 S 4. Subdivisions 11, 12 and 13 of section 192-c of the agriculture
21 and markets law are renumbered subdivisions 12, 13 and 14 and a new
22 subdivision 11 is added to read as follows:
23 11. A. UPON THE SATISFACTION OF THE CONDITIONS SET FORTH IN PARAGRAPH
24 B OF THIS SUBDIVISION AND UPON PUBLICATION IN THE STATE REGISTER OF THE

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

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1 CERTIFICATION SET FORTH IN SUBPARAGRAPH (I) OF PARAGRAPH B OF THIS
2 SUBDIVISION AND, IF OCCURRING BEFORE JUNE THIRTIETH, TWO THOUSAND ELEV-
3 EN, THE CERTIFICATION SET FORTH IN CLAUSE (A) OF SUBPARAGRAPH (II) OF
4 PARAGRAPH B OF THIS SUBDIVISION, A PERSON SHALL NOT SELL OR OFFER FOR
5 SALE DIESEL FUEL THAT CONTAINS A CONCENTRATION OF SULFUR THAT IS LESS
6 THAN OR EQUAL TO FIFTEEN PARTS PER MILLION UNLESS SUCH DIESEL FUEL
7 INCLUDES BIODIESEL FUEL AS ITS LUBRICATION ADDITIVE.

8 B. NO PERSON SHALL BE SUBJECT TO THE PROVISIONS OF PARAGRAPH A OF THIS
9 SUBDIVISION UNTIL THE CONDITIONS SET FORTH IN SUBPARAGRAPHS (I) AND (II)
10 OF THIS PARAGRAPH HAVE BEEN SATISFIED:

11 (I) THIRTY DAYS AFTER THE COMMISSIONER HAS CERTIFIED THAT THE ANNUAL
12 CAPACITY FOR THE PRODUCTION OF BIODIESEL FUEL IN THIS STATE EXCEEDS
13 TWELVE MILLION GALLONS; AND

14 (II) THE EARLIER OF:

15 (A) EIGHTEEN MONTHS AFTER THE COMMISSIONER CERTIFIES THAT A FEDERAL
16 ACTION ON TAXES IMPOSED, TAX CREDITS ALLOWED OR OTHER ACTION CREATES A
17 TWO CENT OR GREATER REDUCTION IN THE PRICE ON TAXABLE DIESEL FUEL THAT
18 CONTAINS AT LEAST TWO PERCENT BIODIESEL FUEL THAT IS SOLD IN THIS STATE;
19 OR

20 (B) JUNE THIRTIETH, TWO THOUSAND ELEVEN.

21 S 5. This act shall take effect immediately, provided that the commis-
22 sioner of agriculture and markets shall notify the legislative bill
23 drafting commission upon the occurrence of the certifications set forth
24 in section four of this act in order that the commission may maintain an
25 accurate and timely effective data base of the official text of the laws
26 of the state of New York in furtherance of effecting the provisions of
27 section 44 of the legislative law and section 70-b of the public offi-
28 cers law.