S T A T E O F N E W Y O R K

998

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 Conservation

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 19-0107 of the environmental conservation law is amended by adding a new subdivision 25 to read as follows:

25. "BIODIESEL FUEL" MEANS A RENEWABLE, BIODEGRADABLE, MONO ALKYL ESTER COMBUSTIBLE LIQUID FUEL DERIVED FROM AGRICULTURAL PLANT OILS OR ANIMAL FATS AND THAT MEETS AMERICAN SOCIETY FOR TESTING AND MATERIALS SPECIFICATION D6751 FOR BIODIESEL FUEL (B100) BLEND STOCK FOR DISTILLATE FUELS AS UPDATED.

S 2. Subdivision 2 of section 19-0301 of the environmental conservation law is amended by adding a new paragraph f to read as follows:

F. COOPERATE WITH THE DEPARTMENT OF AGRICULTURE AND MARKETS TO ENSURE AN EFFICIENT TRANSITION TO THE USE OF BIODIESEL FUEL AS THE LUBRICATION ADDITIVE FOR LOW-SULFUR DIESEL FUEL.

S 3. Subdivision 1 of section 192-c of the agriculture and markets law is amended by adding a new paragraph k to read as follows:

K. "BIODIESEL FUEL" MEANS A RENEWABLE, BIODEGRADABLE, MONO ALKYL ESTER COMBUSTIBLE LIQUID FUEL DERIVED FROM AGRICULTURAL PLANT OILS OR ANIMAL FATS AND THAT MEETS AMERICAN SOCIETY FOR TESTING AND MATERIALS SPECIFICATION D6751 FOR BIODIESEL FUEL (B100) BLEND STOCK FOR DISTILLATE FUELS AS UPDATED.

S 4. Subdivisions 11, 12 and 13 of section 192-c of the agriculture and markets law are renumbered subdivisions 12, 13 and 14 and a new subdivision 11 is added to read as follows:

11. A. UPON THE SATISFACTION OF THE CONDITIONS SET FORTH IN PARAGRAPH 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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CERTIFICATION SET FORTH IN SUBPARAGRAPH (I) OF PARAGRAPH B OF THIS SUBDIVISION AND, IF OCCURRING BEFORE JUNE THIRTIETH, TWO THOUSAND ELEVEN, THE CERTIFICATION SET FORTH IN CLAUSE (A) OF SUBPARAGRAPH (II) OF PARAGRAPH B OF THIS SUBDIVISION, A PERSON SHALL NOT SELL OR OFFER FOR SALE DIESEL FUEL THAT CONTAINS A CONCENTRATION OF SULFUR THAT IS LESS THAN OR EQUAL TO FIFTEEN PARTS PER MILLION UNLESS SUCH DIESEL FUEL INCLUDES BIODIESEL FUEL AS ITS LUBRICATION ADDITIVE.

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

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

(II) THE EARLIER OF:

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

(B) JUNE THIRTIETH, TWO THOUSAND ELEVEN.

S 5. This act shall take effect immediately, provided that the commissioner of agriculture and markets shall notify the legislative bill drafting commission upon the occurrence of the certifications set forth in section four of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.