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

10696

I N A S S E M B L Y

April 14, 2010

Introduced by M. of A. DESTITO -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to purchase of cleaner vehicles for use by state agencies

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

Section 1. The executive law is amended by adding a new section 201-b to read as follows:

S 201-B. PURCHASE OF CLEANER VEHICLES FOR USE BY STATE AGENCIES. 1. DEFINITIONS. AS USED IN THIS SECTION:

(A) "ALTERNATIVE FUEL" MEANS NATURAL GAS, LIQUEFIED PETROLEUM GAS, HYDROGEN, ELECTRICITY, AND ANY OTHER FUEL WHICH IS AT LEAST EIGHTY-FIVE PERCENT, SINGLY OR IN COMBINATION, METHANOL, ETHANOL, ANY OTHER ALCOHOL OR ETHER.

(B) "ALTERNATIVE FUEL MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS OPERATED USING SOLELY AN ALTERNATIVE FUEL OR IS OPERATED USING AN ALTERNATIVE FUEL IN COMBINATION WITH GASOLINE OR DIESEL FUEL.

(C) "GROSS VEHICLE WEIGHT RATING" MEANS THE VALUE SPECIFIED BY THE MANUFACTURER OF A MOTOR VEHICLE MODEL AS THE MAXIMUM DESIGN LOADED WEIGHT OF A SINGLE VEHICLE OF THAT MODEL.

(D) "LIGHT-DUTY VEHICLE" MEANS ANY MOTOR VEHICLE HAVING A GROSS VEHICLE WEIGHT RATING OF EIGHT THOUSAND FIVE HUNDRED POUNDS OR LESS.

(E) "MEDIUM-DUTY VEHICLE" MEANS ANY MOTOR VEHICLE HAVING A GROSS VEHICLE WEIGHT RATING OF MORE THAN EIGHT THOUSAND FIVE HUNDRED POUNDS BUT NOT MORE THAN FOURTEEN THOUSAND POUNDS.

(F) "MOTOR VEHICLE" MEANS A VEHICLE OPERATED OR DRIVEN UPON A PUBLIC HIGHWAY WHICH IS PROPELLED BY ANY POWER OTHER THAN MUSCULAR POWER, EXCEPT ELECTRICALLY-DRIVEN MOBILITY ASSISTANCE DEVICES OPERATED OR DRIVEN BY A PERSON WITH A DISABILITY.

(G) "PURCHASE" MEANS PURCHASE, LEASE, BORROW, OR OTHERWISE ACQUIRE.

(H) "STATE AGENCY" MEANS ANY DEPARTMENT, BOARD, BUREAU, COMMISSION, DIVISION, OFFICE, COUNCIL, COMMITTEE OR OFFICER OF THE STATE, OR A PUBLIC BENEFIT CORPORATION OR PUBLIC AUTHORITY AT LEAST ONE OF WHOSE

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

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MEMBERS IS APPOINTED BY THE GOVERNOR, BUT SHALL NOT INCLUDE THE GOVERNOR OR AGENCIES IN THE LEGISLATIVE OR JUDICIAL BRANCHES.

(I) "B100" SHALL MEAN BIO-DIESEL IN ITS PURE FORM.

(J) "B20" SHALL MEAN A MIXTURE OF TWENTY PERCENT BIO-DIESEL AND EIGHTY PERCENT PETROLEUM FUEL.

(K) "B5" SHALL MEAN A MIXTURE OF FIVE PERCENT BIO-DIESEL AND NINETY-FIVE PERCENT PETROLEUM FUEL.

(L) "E85" SHALL MEAN A MIXTURE OF EIGHTY-FIVE PERCENT ETHANOL AND FIFTEEN PERCENT PETROLEUM FUEL.

2. ON AND AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, ONE HUNDRED PERCENT OF ALL NEW LIGHT-DUTY VEHICLES PURCHASED BY STATE AGENCIES SHALL BE ALTERNATIVE FUEL MOTOR VEHICLES WITH THE EXCEPTION OF SPECIALTY, POLICE OR EMERGENCY VEHICLES AS DESIGNATED BY THE DIVISION OF THE BUDGET.

3. (A) NOTWITHSTANDING THE PROVISIONS OF SECTION TWO HUNDRED ONE-A OF THIS ARTICLE, AND EXCEPT AS PROVIDED FOR IN PARAGRAPHS (B) AND (C) OF THIS SUBDIVISION, ON AND AFTER JANUARY FIRST, TWO THOUSAND ELEVEN EACH MEDIUM-DUTY VEHICLE THAT A STATE AGENCY PURCHASES, WITH THE EXCEPTION OF SPECIALTY, POLICE OR EMERGENCY VEHICLES AS DESIGNATED BY THE DIVISION OF THE BUDGET, SHALL ACHIEVE THE HIGHEST OF THE FOLLOWING RATINGS, WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH BEING THE HIGHEST VEHICLE RATING, APPLICABLE TO MOTOR VEHICLES CERTIFIED TO CALIFORNIA LEV II STANDARDS AND AVAILABLE WITHIN THE APPLICABLE MODEL YEAR FOR A MEDIUM-DUTY VEHICLE THAT MEETS THE REQUIREMENTS FOR THE INTENDED USE OF SUCH VEHICLE:

(I) ZERO EMISSION VEHICLE (ZEV)

(II) ADVANCED TECHNOLOGY PARTIAL ZERO EMISSION VEHICLE (ATPZEV)

(III) PARTIAL ZERO EMISSION VEHICLE (PZEV)

(IV) SUPER ULTRA LOW EMISSION VEHICLE (SULEV)

(V) ULTRA LOW EMISSION VEHICLE (ULEV)

(VI) LOW EMISSION VEHICLE (LEV)

(B) THE STATE AGENCY SHALL NOT BE REQUIRED TO PURCHASE A ZERO EMISSION VEHICLE OR ADVANCED TECHNOLOGY PARTIAL ZERO EMISSION VEHICLE IN ACCORDANCE WITH SUBPARAGRAPH (I) OF PARAGRAPH (A) OF THIS SUBDIVISION IF THE ONLY AVAILABLE VEHICLE OR VEHICLES THAT ACHIEVE SUCH A RATING COST GREATER THAN FIFTY PERCENT MORE THAN THE LOWEST BID AS DETERMINED BY THE APPLICABLE PROCUREMENT PROCESS FOR A VEHICLE AVAILABLE IN THE NEXT HIGHEST RATING CATEGORY THAT MEETS THE REQUIREMENTS FOR THE INTENDED USE BY THE AGENCY OF SUCH VEHICLE.

(C) NOTWITHSTANDING THE REQUIREMENTS OF PARAGRAPH (A) OF THIS SUBDIVISION, SUCH REQUIREMENTS NEED NOT APPLY TO A MAXIMUM OF FIVE PERCENT OF THE MEDIUM-DUTY VEHICLES PURCHASED WITHIN EACH YEAR.

4. WHEN PURCHASING VEHICLES OTHER THAN LIGHT-DUTY AND MEDIUM-DUTY VEHICLES, INCLUDING NON-ROAD VEHICLES, STATE AGENCIES SHALL PURCHASE THE MOST FUEL EFFICIENT MODEL IN THE VEHICLE CLASS UNLESS THE AGENCY HEAD CERTIFIES IN WRITING THAT PURCHASE OF SUCH MODEL WOULD NOT MEET THE NEEDS OF THE AGENCY.

5. ALL VEHICLES SHALL BE MAINTAINED AND OPERATED IN A MANNER WHICH MAXIMIZES FUEL EFFICIENCY AND MINIMIZES AIR POLLUTION. THE COMMISSIONER OF GENERAL SERVICES SHALL ADOPT REGULATIONS AND IMPLEMENT POLICIES DESIGNED TO REDUCE PETROLEUM CONSUMPTION AND EMISSIONS THROUGH SUCH MEASURES AS THE ESTABLISHMENT OF FLEET MANAGEMENT PRACTICES TO REDUCE VEHICLE MILES TRAVELED, AND THE INSTITUTION AND ENFORCEMENT OF MAINTENANCE, FUELING AND DRIVING POLICIES TO MAXIMIZE FUEL ECONOMY.

6. ALL STATE AGENCIES SHALL ENSURE THAT VEHICLES CAPABLE OF OPERATING ON E85 ETHANOL FUEL SHALL DO SO WHENEVER IT IS FEASIBLE TO DO SO. THE GOVERNOR'S CLEAN VEHICLE COUNCIL SHALL PREPARE A PLAN OUTLINING STEPS

THAT CAN BE TAKEN TO ENSURE THAT, TO THE GREATEST EXTENT POSSIBLE, ALL FLEXIBLE-FUELED VEHICLES IN THE STATE FLEET THAT CAN UTILIZE ETHANOL FUELS WILL DO SO, AND IDENTIFY AND IMPLEMENT MEASURES TO PROVIDE FOR SUCH REFUELING.

7. (A) THE GOVERNOR'S CLEAN VEHICLE COUNCIL SHALL PREPARE A REPORT DETAILING HOW SUCH AGENCIES SHALL PURCHASE, ALLOCATE, DISTRIBUTE AND UTILIZE BIO-DIESEL IN STATE VEHICLES. STATE AGENCIES SHALL PURCHASE, ALLOCATE, DISTRIBUTE AND UTILIZE BIO-DIESEL IN ACCORDANCE WITH THE AFOREMENTIONED REPORT, AND AS SPECIFIED IN THE TABLE BELOW. THE PERCENTAGE OF DIESEL SHALL BE A BLENDED EQUIVALENT WHICH RESULTS IN AN OVERALL CONSUMPTION OF B100 AS SET FORTH BELOW.

CALENDAR YEAR	B100 PERCENTAGE
2011	6.0%
2012	7.0%
2013	8.0%
2014	10.0%

IN TWO THOUSAND FIFTEEN AND THEREAFTER, THE PERCENTAGE OF DIESEL AS SPECIFIED ABOVE SHALL BE SET BY THE COMMISSIONER OF GENERAL SERVICES BY REGULATION, BUT SHALL NOT BE LESS THAN TEN PERCENT.

(B) IN COMPLYING WITH THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION, STATE AGENCIES MAY SUBSTITUTE THE USE OF FOUR HUNDRED FIFTY GALLONS OF B100 FOR THE ACQUISITION OF ONE ALTERNATIVE FUEL MOTOR VEHICLE. USE OF TWO THOUSAND TWO HUNDRED FIFTY GALLONS OF B20 OR USE OF NINE THOUSAND GALLONS OF B5 MAY ALSO BE SUBSTITUTED FOR ONE ALTERNATIVE FUEL MOTOR VEHICLE. NO MORE THAN FIFTY PERCENT OF A GIVEN STATE AGENCY'S ALTERNATIVE FUELED MOTOR VEHICLE PURCHASE REQUIREMENT MAY BE MET BY SUBSTITUTING B100, B20 OR B5 IN ACCORDANCE WITH THIS PARAGRAPH.

(C) THE REQUIREMENTS OF THIS SUBDIVISION MAY BE WAIVED, EITHER IN WHOLE OR IN PART, BY ANY STATE AGENCY UPON A FINDING BY THE HEAD OF SUCH AGENCY THAT ADHERENCE TO SUCH REQUIREMENT WOULD HAVE UNACCEPTABLE IMPACTS UPON THE RELIABLE AND SAFE OPERATION OF SUCH VEHICLES, OR UPON THE LIFE CYCLE OR WARRANTED PERFORMANCE OF CERTAIN CRITICAL COMPONENTS OF SUCH VEHICLES. SUCH WAIVERS SHALL BE IN EFFECT NO LONGER THAN NECESSARY TO ADDRESS THE CONDITION, OR FOR A MAXIMUM OF SIXTY DAYS FROM THE ISSUANCE OF THE FINDING, WHICHEVER ONE IS LESS; HOWEVER, IN THE EVENT THAT THE CONDITION THAT GIVES RISE TO THE WAIVER IS NOT CAPABLE OF BEING RESOLVED WITHIN A SIXTY-DAY PERIOD, SUCH WAIVERS MAY BE EXTENDED FOR AN ADDITIONAL PERIOD BY THE HEAD OF THE AGENCY WITH THE CONCURRENCE OF THE PRESIDENT OF THE NEW YORK STATE RESEARCH AND DEVELOPMENT AUTHORITY, AFTER CONSULTATION WITH THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION.

8. NOT LATER THAN FEBRUARY FIFTEENTH, TWO THOUSAND TWELVE, AND NOT LATER THAN FEBRUARY FIFTEENTH OF EACH YEAR THEREAFTER, THE COMMISSIONER OF GENERAL SERVICES SHALL SUBMIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY A REPORT ON THE EFFORTS OF EACH AGENCY TO IMPLEMENT THIS SECTION. SUCH REPORT SHALL BE PREPARED IN CONJUNCTION WITH THE GOVERNOR'S CLEAN VEHICLE COUNCIL AND SHALL INCLUDE, AT A MINIMUM, INFORMATION ON THE FOLLOWING ACTIVITIES DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR: (A) THE TOTAL NUMBER OF LIGHT-DUTY VEHICLES, MEDIUM-DUTY VEHICLES, HEAVY-DUTY VEHICLES AND OTHER MOTOR VEHICLES (INCLUDING NON-ROAD VEHICLES), RESPECTIVELY, PURCHASED BY SUCH AGENCY; (B) THE TYPE OR TYPES OF FUEL USED BY EACH SUCH VEHICLE; (C) THE TOTAL NUMBER OF VEHICLES, RESPECTIVELY, PURCHASED BY SUCH AGENCY THAT ARE CERTIFIED TO CALIFORNIA LEV II STANDARDS IN EACH OF THE SIX RATING CATEGORIES LISTED IN PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION, DISAGGREGATED ACCORDING TO VEHICLE MODEL; (D) THE TOTAL VEHICLE MILES TRAVELED BY SUCH VEHICLES; AND (E) THE TOTAL AMOUNT OF FUEL

CONSUMED BY EACH CATEGORY OF MOTOR VEHICLES OPERATED BY AN AGENCY AND THE ESTIMATED TOTAL AMOUNT OF EQUIVALENT CARBON DIOXIDE EMITTED BY SUCH VEHICLES, DISAGGREGATED ACCORDING TO FUEL TYPE.

S 2. Not later than February 15, 2011, the commissioner of general services shall submit to the governor, the temporary president of the senate and the speaker of the assembly a report on the status of motor vehicles operated by state agencies. Such report shall be prepared in conjunction with the governor's clean vehicle council and shall include, at a minimum, the following information: (a) the total number of light-duty vehicles, medium-duty vehicles, heavy-duty vehicles and other motor vehicles (including non-road vehicles), respectively, operated by such agency; (b) the type or types of fuel used by each such vehicle; (c) the total number of vehicles, respectively, operated by such agency that are certified to California LEV II standards in each of the six rating categories listed in paragraph (a) of subdivision 3 of section 201-b of the executive law, as added by section one of this act, disaggregated according to vehicle model; (d) the total vehicle miles traveled by such vehicles in 2010; and (e) the total amount of fuel consumed by each category of motor vehicles operated by an agency and the estimated total amount of equivalent carbon dioxide emitted by such vehicles in 2010, disaggregated according to fuel type.

S 3. This act shall take effect January 1, 2011; provided, however, that the commissioner of general services is immediately authorized and directed to take any and all actions necessary, including the promulgation of rules and regulations, to implement this act on or before such effective date.