

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:

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

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

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

9 (B) "ALTERNATIVE FUEL MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS  
10 OPERATED USING SOLELY AN ALTERNATIVE FUEL OR IS OPERATED USING AN ALTER-  
11 NATIVE FUEL IN COMBINATION WITH GASOLINE OR DIESEL FUEL.

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

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

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

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

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

25 (H) "STATE AGENCY" MEANS ANY DEPARTMENT, BOARD, BUREAU, COMMISSION,  
26 DIVISION, OFFICE, COUNCIL, COMMITTEE OR OFFICER OF THE STATE, OR A  
27 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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1 MEMBERS IS APPOINTED BY THE GOVERNOR, BUT SHALL NOT INCLUDE THE GOVERNOR  
2 OR AGENCIES IN THE LEGISLATIVE OR JUDICIAL BRANCHES.

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

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

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

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

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

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

25 (I) ZERO EMISSION VEHICLE (ZEV)

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

27 (III) PARTIAL ZERO EMISSION VEHICLE (PZEV)

28 (IV) SUPER ULTRA LOW EMISSION VEHICLE (SULEV)

29 (V) ULTRA LOW EMISSION VEHICLE (ULEV)

30 (VI) LOW EMISSION VEHICLE (LEV)

31 (B) THE STATE AGENCY SHALL NOT BE REQUIRED TO PURCHASE A ZERO EMISSION  
32 VEHICLE OR ADVANCED TECHNOLOGY PARTIAL ZERO EMISSION VEHICLE IN ACCORD-  
33 ANCE WITH SUBPARAGRAPH (I) OF PARAGRAPH (A) OF THIS SUBDIVISION IF THE  
34 ONLY AVAILABLE VEHICLE OR VEHICLES THAT ACHIEVE SUCH A RATING COST  
35 GREATER THAN FIFTY PERCENT MORE THAN THE LOWEST BID AS DETERMINED BY THE  
36 APPLICABLE PROCUREMENT PROCESS FOR A VEHICLE AVAILABLE IN THE NEXT HIGH-  
37 EST RATING CATEGORY THAT MEETS THE REQUIREMENTS FOR THE INTENDED USE BY  
38 THE AGENCY OF SUCH VEHICLE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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