

3298

2009-2010 Regular Sessions

I N A S S E M B L Y

January 26, 2009

Introduced by M. of A. CAHILL, SILVER, FARRELL, GANTT, MAGEE, DINOWITZ, WRIGHT, GORDON, BRENNAN, DelMONTE, ENGLEBRIGHT, LUPARDO, KOON, LANCMAN -- Multi-Sponsored by -- M. of A. ARROYO, AUBRY, BENEDETTO, BENJAMIN, CLARK, COLTON, CYMBROWITZ, DESTITO, EDDINGTON, GABRYSZAK, GALEF, GLICK, GOTTFRIED, GREENE, GUNTHER, HEVESI, HYER-SPENCER, JACOBS, JAFFEE, JOHN, KELLNER, LAVINE, LENTOL, LIFTON, MAISEL, MARKEY, McENE-NY, MILLMAN, MORELLE, O'DONNELL, ORTIZ, PERRY, PHEFFER, RAMOS, N. RIVERA, P. RIVERA, ROBINSON, ROSENTHAL, SEMINERIO, STIRPE, TOWNS, WEISENBERG, ZEBROWSKI -- 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 SOLELY AN
11 ALTERNATIVE 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.

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

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(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 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 TEN, 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 TEN 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.

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

8 6. ALL STATE AGENCIES SHALL ENSURE THAT VEHICLES CAPABLE OF OPERATING
9 ON E85 ETHANOL FUEL SHALL DO SO WHENEVER IT IS FEASIBLE TO DO SO. THE
10 GOVERNOR'S CLEAN VEHICLE COUNCIL SHALL PREPARE A PLAN OUTLINING STEPS
11 THAT CAN BE TAKEN TO ENSURE THAT, TO THE GREATEST EXTENT POSSIBLE, ALL
12 FLEXIBLE-FUELED VEHICLES IN THE STATE FLEET THAT CAN UTILIZE ETHANOL
13 FUELS WILL DO SO, AND IDENTIFY AND IMPLEMENT MEASURES TO PROVIDE FOR
14 SUCH REFUELING.

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

22 CALENDAR YEAR	B100 PERCENTAGE
23 2009	6.0%
24 2010	7.0%
25 2011	8.0%
26 2012	10.0%

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

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

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

51 8. NOT LATER THAN FEBRUARY FIFTEENTH, TWO THOUSAND ELEVEN, AND NOT
52 LATER THAN FEBRUARY FIFTEENTH OF EACH YEAR THEREAFTER, THE COMMISSIONER
53 OF GENERAL SERVICES SHALL SUBMIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT
54 OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY A REPORT ON THE
55 EFFORTS OF EACH AGENCY TO IMPLEMENT THIS SECTION. SUCH REPORT SHALL BE
56 PREPARED IN CONJUNCTION WITH THE GOVERNOR'S CLEAN VEHICLE COUNCIL AND

1 SHALL INCLUDE, AT A MINIMUM, INFORMATION ON THE FOLLOWING ACTIVITIES
2 DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR: (A) THE TOTAL NUMBER OF
3 LIGHT-DUTY VEHICLES, MEDIUM-DUTY VEHICLES, HEAVY DUTY VEHICLES AND OTHER
4 MOTOR VEHICLES (INCLUDING NON-ROAD VEHICLES), RESPECTIVELY, PURCHASED BY
5 SUCH AGENCY; (B) THE TYPE OR TYPES OF FUEL USED BY EACH SUCH VEHICLE;
6 (C) THE TOTAL NUMBER OF VEHICLES, RESPECTIVELY, PURCHASED BY SUCH AGENCY
7 THAT ARE CERTIFIED TO CALIFORNIA LEV II STANDARDS IN EACH OF THE SIX
8 RATING CATEGORIES LISTED IN PARAGRAPH (A) OF SUBDIVISION THREE OF THIS
9 SECTION, DISAGGREGATED ACCORDING TO VEHICLE MODEL; (D) THE TOTAL VEHICLE
10 MILES TRAVELED BY SUCH VEHICLES; AND (E) THE TOTAL AMOUNT OF FUEL
11 CONSUMED BY EACH CATEGORY OF MOTOR VEHICLES OPERATED BY AN AGENCY AND
12 THE ESTIMATED TOTAL AMOUNT OF EQUIVALENT CARBON DIOXIDE EMITTED BY SUCH
13 VEHICLES, DISAGGREGATED ACCORDING TO FUEL TYPE.

14 S 2. Not later than February 15, 2010, the commissioner of general
15 services shall submit to the governor, the temporary president of the
16 senate and the speaker of the assembly a report on the status of motor
17 vehicles operated by state agencies. Such report shall be prepared in
18 conjunction with the governor's clean vehicle council and shall include,
19 at a minimum, the following information: (a) the total number of light-
20 duty vehicles, medium-duty vehicles, heavy-duty vehicles and other motor
21 vehicles (including non-road vehicles), respectively, operated by such
22 agency; (b) the type or types of fuel used by each such vehicle; (c) the
23 total number of vehicles, respectively, operated by such agency that are
24 certified to California LEV II standards in each of the six rating cate-
25 gories listed in paragraph (a) of subdivision 3 of section 201-b of the
26 executive law, as added by section one of this act, disaggregated
27 according to vehicle model; (d) the total vehicle miles traveled by such
28 vehicles in 2009; and (e) the total amount of fuel consumed by each
29 category of motor vehicles operated by an agency and the estimated total
30 amount of equivalent carbon dioxide emitted by such vehicles in 2009,
31 disaggregated according to fuel type.

32 S 3. This act shall take effect January 1, 2010; provided, however,
33 that the commissioner of general services is immediately authorized and
34 directed to take any and all actions necessary, including the promulga-
35 tion of rules and regulations, to implement this act on or before such
36 effective date.