

4315--A

2009-2010 Regular Sessions

I N S E N A T E

April 21, 2009

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Introduced by Sens. THOMPSON, ADAMS, ADDABBO, BRESLIN, DIAZ, DILAN, DUANE, ESPADA, FOLEY, FUSCHILLO, HASSELL-THOMPSON, HUNTLEY, KRUEGER, LAVALLE, LEIBELL, MONSERRATE, MONTGOMERY, MORAHAN, ONORATO, OPPENHEIMER, PADAVAN, PARKER, PERKINS, SAMPSON, SAVINO, SCHNEIDERMAN, SERRANO, SQUADRON, STAVISKY, STEWART-COUSINS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to global warming pollution control

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

1 Section 1. Legislative findings. Global warming poses a serious threat  
2 to the economic well-being, public health, natural resources and envi-  
3 ronment of New York. The potential adverse impacts of global warming  
4 include the exacerbation of air quality problems, a reduction in the  
5 quality and supply of water to the state, a rise in sea levels resulting  
6 in the displacement of coastal businesses, residents and infrastructure,  
7 damage to marine ecosystems and the natural environment, and an increase  
8 in the incidences of infectious diseases, asthma, and other human  
9 health-related problems. Global warming will have detrimental effects  
10 on some of New York's largest industries, including agriculture, tour-  
11 ism, skiing, recreational and commercial fishing and forestry.  
12 The Intergovernmental Panel on Climate Change, awarded the 2007 Nobel  
13 Peace Prize, determined that burning coal, oil and gas has led to higher  
14 temperatures that are already impacting physical and biological systems.  
15 The panel also projected temperatures would rise more rapidly if green-  
16 house gases are not abated. The panel concluded that reducing emissions

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

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1 80 percent below current emissions by mid-century would prevent the  
2 worst impacts of global warming.

3 National and international actions are necessary to fully address the  
4 issue of global warming. Action taken by New York and other states to  
5 reduce emissions of greenhouse gases will have far-reaching effects by  
6 encouraging the federal government, and other countries to act including  
7 encouraging the development of sustainable, non-polluting technologies  
8 such as solar, wind, geothermal and ocean currents.

9 S 2. Article 19 of the environmental conservation law is amended by  
10 adding a new title 13 to read as follows:

11 TITLE 13

12 GLOBAL WARMING POLLUTION CONTROL

13 SECTION 19-1301. SHORT TITLE.

14 19-1303. DEFINITIONS.

15 19-1305. GREENHOUSE GAS REPORTING.

16 19-1307. GREENHOUSE GAS LIMITS.

17 S 19-1301. SHORT TITLE.

18 THIS TITLE MAY BE CITED AS THE "GLOBAL WARMING POLLUTION CONTROL ACT".

19 S 19-1303. DEFINITIONS.

20 WHEN USED IN THIS TITLE:

21 1. "GREENHOUSE GAS" MEANS CARBON DIOXIDE, METHANE, NITROUS OXIDE,  
22 HYDROFLUOROCARBONS, PERFLUOROCARBONS, SULFUR HEXAFLUORIDE, AND ANY OTHER  
23 GAS DETERMINED BY THE DEPARTMENT TO BE A SIGNIFICANT CONTRIBUTOR TO  
24 GLOBAL WARMING.

25 2. "GREENHOUSE GAS EMISSION SOURCE" MEANS ANY SOURCE OR CATEGORY OF  
26 SOURCES OF GREENHOUSE GAS EMISSIONS AND SHALL INCLUDE, BUT NOT BE LIMIT-  
27 ED TO EMISSIONS:

28 (A) ASSOCIATED WITH FOSSIL FUELS USED IN THE STATE BY ENTITIES THAT  
29 ARE MANUFACTURERS AND DISTRIBUTORS OF FOSSIL FUELS, INCLUDING, BUT NOT  
30 LIMITED TO, OIL REFINERIES, OIL STORAGE FACILITIES, AND NATURAL GAS  
31 PIPELINES;

32 (B) FROM ANY UTILITY GENERATING OR DELIVERING ELECTRICITY CONSUMED IN  
33 THE STATE, WHETHER THE ELECTRICITY IS GENERATED IN THE STATE, OR GENER-  
34 ATED OUTSIDE THE STATE AND IMPORTED INTO THE STATE, AND ACCOUNTING FOR  
35 TRANSMISSION AND DISTRIBUTION LINE LOSSES; AND

36 (C) FROM ANY ADDITIONAL ENTITIES THAT ARE EMITTERS OF GREENHOUSE  
37 GASES, AS DETERMINED BY THE DEPARTMENT, AND APPROPRIATE TO ENABLE THE  
38 DEPARTMENT TO MONITOR COMPLIANCE WITH THE EMISSIONS LIMITS FOR GREEN-  
39 HOUSE GASES ESTABLISHED PURSUANT TO THIS TITLE.

40 S 19-1305. GREENHOUSE GAS REPORTING.

41 1. NO LATER THAN MAY 1, 2011, THE DEPARTMENT SHALL PROMULGATE RULES  
42 AND REGULATIONS REQUIRING ANNUAL GREENHOUSE GAS EMISSIONS REPORTING FROM  
43 GREENHOUSE GAS EMISSION SOURCES. THE REGULATIONS SHALL:

44 (A) INCLUDE GREENHOUSE GAS EMISSIONS FROM ALL GREENHOUSE GAS EMISSION  
45 SOURCES EXPRESSED IN TONS OF CARBON DIOXIDE EQUIVALENTS;

46 (B) ENSURE RIGOROUS AND CONSISTENT ACCOUNTING OF EMISSIONS, AND  
47 PROVIDE REPORTING TOOLS AND FORMATS TO ENSURE COLLECTION OF NECESSARY  
48 DATA; AND

49 (C) ENSURE THAT EACH GREENHOUSE GAS EMISSION SOURCE MAINTAINS COMPRE-  
50 HENSIVE EMISSIONS RECORDS OF ANY GREENHOUSE GAS REPORTED FOR AT LEAST  
51 FIVE YEARS.

52 2. THE DEPARTMENT SHALL:

53 (A) PERIODICALLY REVIEW AND UPDATE ITS EMISSION REPORTING REQUIREMENTS  
54 AT LEAST EVERY FIVE YEARS; AND

1 (B) MAKE REASONABLE EFFORTS TO MAKE ITS REPORTING REGULATIONS CONSIST-  
2 ENT WITH INTERNATIONAL, FEDERAL AND OTHER STATES' GREENHOUSE GAS EMIS-  
3 SION REPORTING PROGRAMS.

4 3. NO LATER THAN JANUARY 1, 2013, AND EVERY THREE YEARS THEREAFTER,  
5 THE DEPARTMENT SHALL ISSUE A REPORT ON:

6 (A) THE ANNUAL GREENHOUSE GAS EMISSIONS FROM ALL GREENHOUSE GAS EMIS-  
7 SION SOURCES, INCLUDING THE RELATIVE CONTRIBUTION OF EACH GREENHOUSE GAS  
8 EMISSION SOURCE TO STATEWIDE GREENHOUSE GAS EMISSIONS; AND

9 (B) THE PROGRESS MADE BY THE DEPARTMENT IN ACHIEVING THE REQUIREMENTS  
10 OF SECTION 19-1307 OF THIS TITLE.

11 S 19-1307. GREENHOUSE GAS LIMITS.

12 1. NO LATER THAN JANUARY 1, 2013, THE DEPARTMENT, AFTER A PUBLIC HEAR-  
13 ING, SHALL PROMULGATE RULES AND REGULATIONS SETTING AN ENFORCEABLE LIMIT  
14 ON THE AGGREGATE LEVEL OF GREENHOUSE GAS EMISSIONS FROM ALL GREENHOUSE  
15 GAS EMISSION SOURCES PROVIDED; HOWEVER, THE AGGREGATE LIMIT SHALL NOT BE  
16 GREATER THAN THE AGGREGATE LEVEL OF GREENHOUSE GAS EMISSIONS FOR CALEN-  
17 DAR YEAR 1990.

18 2. (A) ON JANUARY 1, 2020 THE LIMIT ESTABLISHED IN SUBDIVISION ONE OF  
19 THIS SECTION SHALL BE REDUCED BY 20 PERCENT.

20 (B) ON JANUARY 1, 2025 THE LIMIT ESTABLISHED IN SUBDIVISION ONE OF  
21 THIS SECTION SHALL BE REDUCED BY 30 PERCENT.

22 (C) ON JANUARY 1, 2030 THE LIMIT ESTABLISHED IN SUBDIVISION ONE OF  
23 THIS SECTION SHALL BE REDUCED BY 40 PERCENT.

24 (D) ON JANUARY 1, 2035 THE LIMIT ESTABLISHED IN SUBDIVISION ONE OF  
25 THIS SECTION SHALL BE REDUCED BY 50 PERCENT.

26 (E) ON JANUARY 1, 2040 THE LIMIT ESTABLISHED IN SUBDIVISION ONE OF  
27 THIS SECTION SHALL BE REDUCED BY 60 PERCENT.

28 (F) ON JANUARY 1, 2045 THE LIMIT ESTABLISHED IN SUBDIVISION ONE OF  
29 THIS SECTION SHALL BE REDUCED BY 70 PERCENT.

30 (G) ON JANUARY 1, 2050, AND EACH YEAR THEREAFTER, THE LIMIT SHALL  
31 REMAIN AT 80 PERCENT BELOW THE LIMIT ESTABLISHED IN SUBDIVISION ONE OF  
32 THIS SECTION.

33 3. ANY RULE OR REGULATION THE COMMISSIONER ADOPTS TO COMPLY WITH THIS  
34 SECTION MUST:

35 (A) NOT PLACE OR INCREASE AN ADDITIONAL ENVIRONMENTAL OR HEALTH BURDEN  
36 ON A COMMUNITY THAT HAS A SIGNIFICANT LEVEL OF REGULATED AIR CONTAM-  
37 INANT SOURCE EMISSIONS WITHIN THE COMMUNITY AS COMPARED WITH THE COUNTY  
38 AVERAGE;

39 (B) BE COMPATIBLE WITH OTHER EMISSIONS REDUCTIONS PROGRAMS; AND

40 (C) INCLUDE A PLAN TO THE EXTENT PRACTICABLE TO ADDRESS ADAPTATION TO  
41 CLIMATE CHANGE INCLUDING BUT NOT LIMITED TO TERRESTRIAL AND AQUATIC  
42 HABITATS, PLANTS AND ANIMAL SPECIES, CONNECTIVITY OF HABITATS, AND  
43 ECOSYSTEM SERVICES PROVIDED BY NATURAL RESOURCES INCLUDING BUT NOT  
44 LIMITED TO FLOOD CONTROL AND DRINKING WATER SUPPLY.

45 S 3. This act shall take effect immediately.