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

5346--A

Cal. No. 182

2011-2012 Regular Sessions

I N A S S E M B L Y

February 16, 2011

Introduced by M. of A. SWEENEY, ORTIZ, WEISENBERG, COLTON, CYMBROWITZ, PEOPLES-STOKES, ZEBROWSKI, LUPARDO, JAFFEE, KAVANAGH, SCHIMEL, TITONE, GLICK, REILLY, LANCMAN, MILLMAN, GALEF, ENGLEBRIGHT, PAULIN, DINOWITZ, ROSENTHAL, CAHILL, GABRYSZAK, FARRELL, KELLNER, LIFTON, HEVESI, ABINANTI, P. RIVERA, MARKEY -- Multi-Sponsored by -- M. of A. BOYLAND, CASTELLI, LATIMER, LENTOL, McENENY, PERRY, THIELE -- read once and referred to the Committee on Environmental Conservation -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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:

Section 1. Legislative findings. Global warming poses a serious threat to the economic well-being, public health, natural resources and environment of New York. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state, a rise in sea levels resulting in the displacement of coastal businesses, residents and infrastructure, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems. Global warming will have detrimental effects on some of New York's largest industries, including agriculture, tourism, skiing, recreational and commercial fishing and forestry.

The Intergovernmental Panel on Climate Change, awarded the 2007 Nobel Peace Prize, determined that burning coal, oil and gas has led to higher temperatures that are already impacting physical and biological systems. The panel also projected temperatures would rise more rapidly if greenhouse gases are not abated. The panel concluded that reducing emissions 80 percent below current emissions by mid-century would prevent the worst impacts of global warming.

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

LBD02916-04-2

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

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

TITLE 13

GLOBAL WARMING POLLUTION CONTROL

SECTION 19-1301. SHORT TITLE.
19-1303. DEFINITIONS.
19-1305. GREENHOUSE GAS REPORTING.
19-1307. GREENHOUSE GAS LIMITS.

S 19-1301. SHORT TITLE.

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

S 19-1303. DEFINITIONS.

WHEN USED IN THIS TITLE:

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

2. "GREENHOUSE GAS EMISSION SOURCE" MEANS ANY SOURCE OR CATEGORY OF SOURCES OF GREENHOUSE GAS EMISSIONS AND SHALL INCLUDE, BUT NOT BE LIMITED TO EMISSIONS:

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

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

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

S 19-1305. GREENHOUSE GAS REPORTING.

1. NO LATER THAN MAY 1, 2013, THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS REQUIRING ANNUAL GREENHOUSE GAS EMISSIONS REPORTING FROM GREENHOUSE GAS EMISSION SOURCES. THE REGULATIONS SHALL:

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

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

(C) ENSURE THAT EACH GREENHOUSE GAS EMISSION SOURCE MAINTAINS COMPREHENSIVE EMISSIONS RECORDS OF ANY GREENHOUSE GAS REPORTED FOR AT LEAST FIVE YEARS.

2. THE DEPARTMENT SHALL:

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

(B) MAKE REASONABLE EFFORTS TO MAKE ITS REPORTING REGULATIONS CONSISTENT WITH INTERNATIONAL, FEDERAL AND OTHER STATES' GREENHOUSE GAS EMISSION REPORTING PROGRAMS.

3. NO LATER THAN JANUARY 1, 2016, AND EVERY THREE YEARS THEREAFTER, THE DEPARTMENT SHALL ISSUE A REPORT ON:

(A) THE ANNUAL GREENHOUSE GAS EMISSIONS FROM ALL GREENHOUSE GAS EMISSION SOURCES, INCLUDING THE RELATIVE CONTRIBUTION OF EACH GREENHOUSE GAS EMISSION SOURCE TO STATEWIDE GREENHOUSE GAS EMISSIONS; AND

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

S 19-1307. GREENHOUSE GAS LIMITS.

1. NO LATER THAN JANUARY 1, 2015, THE DEPARTMENT, AFTER A PUBLIC HEARING, SHALL PROMULGATE RULES AND REGULATIONS SETTING AN ENFORCEABLE LIMIT ON THE AGGREGATE LEVEL OF GREENHOUSE GAS EMISSIONS FROM ALL GREENHOUSE GAS EMISSION SOURCES PROVIDED; HOWEVER, THE AGGREGATE LIMIT SHALL NOT BE GREATER THAN THE AGGREGATE LEVEL OF GREENHOUSE GAS EMISSIONS FOR CALENDAR YEAR 1990.

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

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

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

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

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

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

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

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

(A) NOT PLACE OR INCREASE AN ADDITIONAL ENVIRONMENTAL OR HEALTH BURDEN ON A COMMUNITY THAT HAS A SIGNIFICANT LEVEL OF REGULATED AIR CONTAMINANT SOURCE EMISSIONS WITHIN THE COMMUNITY AS COMPARED WITH THE COUNTY AVERAGE;

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

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

S 3. This act shall take effect immediately.