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

7865

I N S E N A T E

November 14, 2012

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the general business law and the tax law, in relation to alternate generated power capacity; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. The general business law is amended by adding a new section 399-eee to read as follows:

S 399-EEE. ALTERNATE GENERATED POWER CAPACITY FOR MOTOR FUEL DISPENSING FACILITIES. 1. FOR PURPOSES OF THIS SECTION THE FOLLOWING DEFINITIONS APPLY:

(A) "MOTOR FUEL TERMINAL FACILITY" AS DEFINED IN PARAGRAPH (K) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THIS ARTICLE.

(B) "WHOLESALER" AS DEFINED IN PARAGRAPH (L) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THIS ARTICLE.

(C) "MAJOR DISASTER" SHALL MEAN OCCURRENCE OR IMMINENT THREAT OF WIDESPREAD OR SEVERE DAMAGE, INJURY, OR LOSS OF LIFE OR PROPERTY RESULTING FROM ANY NATURAL OR MAN-MADE CAUSES, INCLUDING, BUT NOT LIMITED TO, FIRE, FLOOD, EARTHQUAKE, HURRICANE, TORNADO, HIGH WATER, LANDSLIDE, MUDSLIDE, WIND, STORM, WAVE ACTION, VOLCANIC ACTIVITY, EPIDEMIC, AIR CONTAMINATION, TERRORISM, CYBER EVENT, BLIGHT, DROUGHT, INFESTATION, EXPLOSION, RADIOLOGICAL ACCIDENT, NUCLEAR, CHEMICAL, BIOLOGICAL, OR BACTERIOLOGICAL RELEASE, WATER CONTAMINATION, BRIDGE FAILURE OR BRIDGE COLLAPSE.

(D) "ALTERNATE GENERATED POWER SOURCE" SHALL MEAN AN ELECTRICAL GENERATOR THAT IS RATED BY THE MANUFACTURER TO GENERATE AT LEAST THIRTY KILOWATTS OF ELECTRICITY AND WHOSE SOLE FUNCTION IS TO AUTOMATICALLY PROVIDE ELECTRIC POWER WHEN ELECTRIC POWER FROM A UTILITY SERVICE IS INTERRUPTED.

(E) "MOTOR FUEL RETAIL OUTLET" AS DEFINED IN PARAGRAPH (H) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THIS ARTICLE.

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

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(F) "SUBSTANTIALLY RENOVATED" SHALL MEAN A RENOVATION THAT RESULTS IN AN INCREASE OF GREATER THAN FIFTY PERCENT IN THE ASSESSED VALUE OF THE MOTOR FUEL RETAIL OUTLET.

2. BY SEPTEMBER FIRST, TWO THOUSAND FOURTEEN EACH MOTOR FUEL TERMINAL FACILITY AND EACH WHOLESALER WHICH SELLS MOTOR FUEL IN THE STATE SHALL BE CAPABLE OF OPERATING ITS DISTRIBUTION LOADING RACKS USING AN ALTERNATE GENERATED POWER SOURCE FOR A MINIMUM OF SEVENTY-TWO HOURS. PENDING A POST-DISASTER EXAMINATION OF THE EQUIPMENT BY THE OPERATOR TO DETERMINE ANY EXTENUATING DAMAGE THAT WOULD RENDER IT UNSAFE TO USE, THE FACILITY SHALL HAVE SUCH ALTERNATE GENERATED POWER SOURCE AVAILABLE FOR OPERATION NO LATER THAN TWENTY-FOUR HOURS AFTER A MAJOR DISASTER. INSTALLATION OF APPROPRIATE WIRING, INCLUDING A TRANSFER SWITCH, SHALL BE DONE BY A CERTIFIED ELECTRICAL CONTRACTOR. EACH BUSINESS THAT IS SUBJECT TO THIS SECTION SHALL KEEP A COPY OF THE DOCUMENTATION OF SUCH INSTALLATION ON SITE OR AT ITS CORPORATE HEADQUARTERS. EACH BUSINESS SHALL KEEP A WRITTEN STATEMENT ATTESTING TO THE PERIODIC TESTING AND ENSURED OPERATIONAL CAPACITY OF THE EQUIPMENT. THE REQUIRED DOCUMENTATION SHALL BE MADE AVAILABLE, UPON REQUEST, TO THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES AND THE DIRECTOR OF THE COUNTY EMERGENCY MANAGEMENT AGENCY.

3. EACH NEWLY CONSTRUCTED OR SUBSTANTIALLY RENOVATED MOTOR FUEL OUTLET, FOR WHICH A CERTIFICATE OF OCCUPANCY IS ISSUED ON OR AFTER SEPTEMBER FIRST, TWO THOUSAND THIRTEEN SHALL BE PRE-WIRED WITH AN APPROPRIATE TRANSFER SWITCH, AND CAPABLE OF OPERATING FUEL PUMPS, DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS, AND PAYMENT ACCEPTANCE EQUIPMENT USING AN ALTERNATE GENERATED POWER SOURCE. LOCAL BUILDING INSPECTORS SHALL INCLUDE THIS EQUIPMENT AND OPERATIONS CHECK IN THE NORMAL INSPECTION PROCESS BEFORE ISSUING A CERTIFICATE OF OCCUPANCY ON SITE OR AT ITS CORPORATE HEADQUARTERS. IN ADDITION, EACH RETAIL OUTLET MUST KEEP A WRITTEN STATEMENT ATTESTING TO THE PERIODIC TESTING OF AND ENSURED OPERATIONAL CAPACITY OF THE EQUIPMENT. THE REQUIRED DOCUMENTS MUST BE MADE AVAILABLE, UPON REQUEST, TO THE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT AND THE DIRECTOR OF THE COUNTY EMERGENCY MANAGEMENT AGENCY.

4. (A) NO LATER THAN SEPTEMBER FIRST, TWO THOUSAND FOURTEEN EACH MOTOR FUEL RETAIL OUTLET DESCRIBED IN SUBDIVISIONS TWO AND THREE OF THIS SECTION WHICH IS LOCATED WITHIN ONE-HALF MILE TO AN INTERSTATE HIGHWAY OR STATE OR FEDERALLY DESIGNATED EVACUATION ROUTE SHALL BE PRE-WIRED WITH AN APPROPRIATE TRANSFER SWITCH AND BE CAPABLE OF OPERATING ALL FUEL PUMPS, DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS, AND PAYMENT ACCEPTANCE EQUIPMENT USING ALTERNATE GENERATED POWER SOURCE:

(I) A MOTOR FUEL RETAIL OUTLET LOCATED IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE WHICH HAS SIXTEEN OR MORE FUELING POSITIONS.

(II) A MOTOR FUEL RETAIL OUTLET LOCATED IN A COUNTY HAVING A POPULATION OF THREE HUNDRED THOUSAND OR MORE WHICH HAS SIXTEEN OR MORE FUELING POSITIONS.

(III) A MOTOR FUEL RETAIL OUTLET LOCATED IN A COUNTY HAVING A POPULATION OF ONE HUNDRED THOUSAND OR MORE, BUT FEWER THAN THREE HUNDRED THOUSAND WHICH HAS TWELVE OR MORE FUELING POSITIONS.

(IV) A MOTOR FUEL RETAIL OUTLET LOCATED IN A COUNTY HAVING A POPULATION OF FEWER THAN ONE HUNDRED THOUSAND WHICH HAS EIGHT OR MORE FUELING POSITIONS.

(B) INSTALLATION OF APPROPRIATE WIRING AND TRANSFER SWITCHES SHALL BE DONE BY A CERTIFIED ELECTRICAL CONTRACTOR. EACH BUSINESS THAT IS SUBJECT TO THIS SECTION SHALL KEEP A COPY OF THE DOCUMENTATION OF SUCH INSTALLATION ON SITE OR AT ITS CORPORATE HEADQUARTERS. EACH BUSINESS SHALL KEEP

A WRITTEN STATEMENT ATTESTING TO THE PERIODIC TESTING AND ENSURED OPERATIONAL CAPACITY OF THE EQUIPMENT. THE REQUIRED DOCUMENTATION SHALL BE MADE AVAILABLE, UPON REQUEST, TO THE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT AND THE DIRECTOR OF THE COUNTY EMERGENCY MANAGEMENT AGENCY.

5. (A) SUBDIVISIONS TWO AND THREE OF THIS SECTION APPLY TO ANY SELF SERVICE, FULL SERVICE OR COMBINATION SELF-SERVICE AND FULL SERVICE MOTOR FUEL RETAIL OUTLET REGARDLESS OF WHETHER THE FUEL RETAIL OUTLET IS LOCATED ON THE GROUNDS OF, OR IS OWNED BY, ANOTHER RETAIL BUSINESS ESTABLISHMENT THAT DOES NOT ENGAGE IN THE BUSINESS OF SELLING MOTOR FUEL.

(B) SUBDIVISIONS TWO AND THREE OF THIS SECTION SHALL NOT APPLY TO:

(I) AN AUTOMOBILE DEALER;

(II) A PERSON WHO OPERATES A FLEET OF MOTOR VEHICLES;

(III) A PERSON WHO SELLS MOTOR FUEL EXCLUSIVELY TO A FLEET OF MOTOR VEHICLES; OR

(IV) A MOTOR FUEL RETAIL OUTLET THAT HAS A WRITTEN AGREEMENT WITH A PUBLIC HOSPITAL, IN A FORM APPROVED BY THE DIVISION OF EMERGENCY MANAGEMENT, WHEREIN THE PUBLIC HOSPITAL AGREES TO PROVIDE THE MOTOR FUEL RETAIL OUTLET WITH AN ALTERNATIVE MEANS OF POWER GENERATION ONSITE SO THAT THE OUTLET'S FUEL PUMPS MAY BE OPERATED IN THE EVENT OF A POWER OUTAGE.

6. (A) EACH CORPORATION OR OTHER ENTITY THAT OWNS TEN OR MORE MOTOR FUEL RETAIL OUTLETS LOCATED WITHIN A SINGLE COUNTY SHALL MAINTAIN AT LEAST ONE PORTABLE GENERATOR THAT IS CAPABLE OF PROVIDING AN ALTERNATE GENERATED POWER SOURCE AS REQUIRED UNDER SUBDIVISION TWO OF THIS SECTION FOR EVERY TEN OUTLETS. IF AN ENTITY OWNS MORE THAN TEN OUTLETS OR A MULTIPLE OF TEN OUTLETS PLUS AN ADDITIONAL SIX OUTLETS, THE ENTITY MUST PROVIDE AN ADDITIONAL GENERATOR TO ACCOMMODATE SUCH ADDITIONAL OUTLETS. EACH PORTABLE GENERATOR MUST BE STORED WITHIN THIS STATE AND MUST BE AVAILABLE FOR USE IN AN AFFECTED LOCATION WITHIN TWENTY-FOUR HOURS AFTER THE DISASTER.

(B) FOR PURPOSES OF THIS SECTION, OWNERSHIP OF A MOTOR FUEL RETAIL OUTLET IS THE OWNER OF RECORD OF THE FUEL STORAGE SYSTEMS OPERATING AT THE LOCATION.

S 2. The tax law is amended by adding a new section 187-s to read as follows:

S 187-S. TAX CREDIT FOR ALTERNATE GENERATED STORAGE. (A) (1) FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE AT A MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE AS REQUIRED BY SUBDIVISIONS TWO AND THREE OF SECTION THREE HUNDRED NINETY-NINE-EEE OF THE GENERAL BUSINESS LAW.

(2) FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE AT A MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE THAT IS NOT SUBJECT TO THE REQUIREMENTS UNDER SUBDIVISIONS TWO AND THREE OF SECTION THREE HUNDRED NINETY-NINE-EEE OF THE GENERAL BUSINESS LAW, NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS.

(B) THE FOLLOWING DEFINITIONS APPLY FOR PURPOSES OF THIS SECTION:

(1) "ALTERNATE GENERATED POWER SOURCE" MEANS AN ELECTRICAL GENERATOR THAT IS RATED BY THE MANUFACTURER TO GENERATE AT LEAST THIRTY KILOWATTS OF ELECTRICITY AND WHOSE SOLE FUNCTION IS TO AUTOMATICALLY PROVIDE ELECTRIC POWER WHEN ELECTRIC POWER FROM A UTILITY SERVICE IS INTERRUPTED.

(2) "MOTOR FUEL RETAIL OUTLET" AS DEFINED IN PARAGRAPH (H) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THE GENERAL BUSINESS LAW AND IS OWNED BY A TAXPAYER WITH WORLDWIDE GROSS RECEIPTS OF LESS THAN ONE MILLION DOLLARS FOR ANY TAXABLE YEAR FOR WHICH THE CREDIT AUTHORIZED BY THIS SECTION IS CLAIMED. THE GROSS RECEIPTS OF ANY TRADES OR BUSINESSES THAT ARE TREATED AS RELATED UNDER SECTION 267, 318 OR 707 OF THE INTERNAL REVENUE CODE SHALL BE AGGREGATED FOR PURPOSES OF DETERMINING WORLDWIDE GROSS RECEIPTS.

(3) "GROSS RECEIPTS" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION ONE HUNDRED EIGHTY-TWO-A OF THIS ARTICLE.

(C) THE DEPRECIABLE BASIS OF ANY ALTERNATE GENERATED POWER SOURCE SHALL BE REDUCED BY THE AMOUNT OF ANY CREDIT ALLOWABLE UNDER THIS SECTION.

(D) IF AN ALTERNATE GENERATED POWER SOURCE FOR WHICH A CREDIT IS ALLOWED PURSUANT TO THIS SECTION IS THEREAFTER SOLD, RETURNED TO THE VENDOR, OR OTHERWISE REMOVED FROM SERVICE BY THE TAXPAYER WITHIN ONE YEAR FROM THE DATE THE ALTERNATE GENERATED POWER SOURCE WAS PLACED IN SERVICE, THE AMOUNT OF CREDIT ALLOWED BY THIS SECTION FOR THE PURCHASE AND INSTALLATION OF THAT ALTERNATE GENERATED POWER SOURCE SHALL BE RECAPTURED BY ADDING THAT CREDIT AMOUNT TO THE TAX OF THE TAXPAYER FOR THE TAXABLE YEAR IN WHICH THE ALTERNATE GENERATED POWER SOURCE IS SOLD OR REMOVED.

(E) IN THE CASE WHERE THE TAX CREDIT IS NOT EXHAUSTED IN THE TAXABLE YEAR ANY EXCESS MAY BE CARRIED OVER IN THE FOLLOWING YEAR, AND FIVE SUCCEEDING YEARS IF NECESSARY, AND MAY BE DEDUCTED FROM THE TAX IMPOSED BY THIS ARTICLE UNTIL SUCH CREDIT IS EXHAUSTED.

S 3. Section 210 of the tax law is amended by adding a new subdivision 46 to read as follows:

46. TAX CREDIT FOR ALTERNATE GENERATED STORAGE. (A) (1) FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE AT A MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE AS REQUIRED BY SUBDIVISIONS TWO AND THREE OF SECTION THREE HUNDRED NINETY-NINE-EEE OF THE GENERAL BUSINESS LAW.

(2) FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE AT A MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE THAT IS NOT SUBJECT TO THE REQUIREMENTS UNDER SUBDIVISIONS TWO AND THREE OF SECTION THREE HUNDRED NINETY-NINE-EEE OF THE GENERAL BUSINESS LAW, NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS.

(B) THE FOLLOWING DEFINITIONS APPLY FOR PURPOSES OF THIS SECTION:

(1) "ALTERNATE GENERATED POWER SOURCE" MEANS AN ELECTRICAL GENERATOR THAT IS RATED BY THE MANUFACTURER TO GENERATE AT LEAST THIRTY KILOWATTS OF ELECTRICITY AND WHOSE SOLE FUNCTION IS TO AUTOMATICALLY PROVIDE ELECTRIC POWER WHEN ELECTRIC POWER FROM A UTILITY SERVICE IS INTERRUPTED.

(2) "MOTOR FUEL RETAIL OUTLET" AS DEFINED IN PARAGRAPH (H) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THE GENERAL BUSINESS LAW AND IS OWNED BY A TAXPAYER WITH WORLDWIDE GROSS RECEIPTS OF LESS THAN ONE MILLION DOLLARS FOR ANY TAXABLE YEAR FOR WHICH THE CREDIT AUTHORIZED BY THIS SECTION IS CLAIMED. THE GROSS RECEIPTS OF ANY TRADES OR BUSINESSES THAT ARE TREATED AS RELATED UNDER SECTION 267, 318 OR 707 OF THE INTERNAL REVENUE CODE SHALL BE AGGREGATED FOR PURPOSES OF DETERMINING WORLDWIDE GROSS RECEIPTS.

(3) "GROSS RECEIPTS" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION ONE HUNDRED-EIGHTY-TWO-A OF THIS CHAPTER.

(C) THE DEPRECIABLE BASIS OF ANY ALTERNATE GENERATED POWER SOURCE SHALL BE REDUCED BY THE AMOUNT OF ANY CREDIT ALLOWABLE UNDER THIS SECTION.

(D) IF AN ALTERNATE GENERATED POWER SOURCE FOR WHICH A CREDIT IS ALLOWED PURSUANT TO THIS SECTION IS THEREAFTER SOLD, RETURNED TO THE VENDOR, OR OTHERWISE REMOVED FROM SERVICE BY THE TAXPAYER WITHIN ONE YEAR FROM THE DATE THE ALTERNATE GENERATED POWER SOURCE WAS PLACED IN SERVICE, THE AMOUNT OF CREDIT ALLOWED BY THIS SECTION FOR THE PURCHASE AND INSTALLATION OF THAT ALTERNATE GENERATED POWER SOURCE SHALL BE RECAPTURED BY ADDING THAT CREDIT AMOUNT TO THE TAX OF THE TAXPAYER FOR THE TAXABLE YEAR IN WHICH THE ALTERNATE GENERATED POWER SOURCE IS SOLD OR REMOVED.

(E) IN THE CASE WHERE THE TAX CREDIT IS NOT EXHAUSTED IN THE TAXABLE YEAR ANY EXCESS MAY BE CARRIED OVER IN THE FOLLOWING YEAR, AND FIVE SUCCEEDING YEARS IF NECESSARY, AND MAY BE DEDUCTED FROM THE TAX IMPOSED BY THIS ARTICLE UNTIL SUCH CREDIT IS EXHAUSTED.

S 4. Section 606 of the tax law is amended by adding a new subsection (u) to read as follows:

(U) TAX CREDIT FOR ALTERNATE GENERATED STORAGE. (1)(A) FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE AT A MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE AS REQUIRED BY SUBDIVISIONS TWO AND THREE OF SECTION THREE HUNDRED NINETY-NINE-EEE OF THE GENERAL BUSINESS LAW.

(B) FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE AT A MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE THAT IS NOT SUBJECT TO THE REQUIREMENTS UNDER SUBDIVISIONS TWO AND THREE OF SECTION THREE HUNDRED NINETY-NINE-EEE OF THE GENERAL BUSINESS LAW, NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS.

(2) THE FOLLOWING DEFINITIONS APPLY FOR PURPOSES OF THIS SECTION:

(A) "ALTERNATE GENERATED POWER SOURCE" MEANS AN ELECTRICAL GENERATOR THAT IS RATED BY THE MANUFACTURER TO GENERATE AT LEAST THIRTY KILOWATTS OF ELECTRICITY AND WHOSE SOLE FUNCTION IS TO AUTOMATICALLY PROVIDE ELECTRIC POWER WHEN ELECTRIC POWER FROM A UTILITY SERVICE IS INTERRUPTED.

(B) "MOTOR FUEL RETAIL OUTLET" AS DEFINED IN PARAGRAPH (H) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THE GENERAL BUSINESS LAW AND IS OWNED BY A TAXPAYER WITH WORLDWIDE GROSS RECEIPTS OF LESS THAN ONE MILLION DOLLARS FOR ANY TAXABLE YEAR FOR WHICH THE CREDIT AUTHORIZED BY THIS SECTION IS CLAIMED. THE GROSS RECEIPTS OF ANY TRADES

OR BUSINESSES THAT ARE TREATED AS RELATED UNDER SECTION 267, 318 OR 707 OF THE INTERNAL REVENUE CODE SHALL BE AGGREGATED FOR PURPOSES OF DETERMINING WORLDWIDE GROSS RECEIPTS.

(C) "GROSS RECEIPTS" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION ONE HUNDRED EIGHTY-TWO-A OF THIS CHAPTER.

(3) THE DEPRECIABLE BASIS OF ANY ALTERNATE GENERATED POWER SOURCE SHALL BE REDUCED BY THE AMOUNT OF ANY CREDIT ALLOWABLE UNDER THIS SECTION.

(4) IF AN ALTERNATE GENERATED POWER SOURCE FOR WHICH A CREDIT IS ALLOWED PURSUANT TO THIS SECTION IS THEREAFTER SOLD, RETURNED TO THE VENDOR, OR OTHERWISE REMOVED FROM SERVICE BY THE TAXPAYER WITHIN ONE YEAR FROM THE DATE THE ALTERNATE GENERATED POWER SOURCE WAS PLACED IN SERVICE, THE AMOUNT OF CREDIT ALLOWED BY THIS SECTION FOR THE PURCHASE AND INSTALLATION OF THAT ALTERNATE GENERATED POWER SOURCE SHALL BE RECAPTURED BY ADDING THAT CREDIT AMOUNT TO THE TAX OF THE TAXPAYER FOR THE TAXABLE YEAR IN WHICH THE ALTERNATE GENERATED POWER SOURCE IS SOLD OR REMOVED.

(5) IN THE CASE WHERE THE TAX CREDIT IS NOT EXHAUSTED IN THE TAXABLE YEAR ANY EXCESS MAY BE CARRIED OVER IN THE FOLLOWING YEAR, AND FIVE SUCCEEDING YEARS IF NECESSARY, AND MAY BE DEDUCTED FROM THE TAX IMPOSED BY THIS ARTICLE UNTIL SUCH CREDIT IS EXHAUSTED.

S 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxv) to read as follows:

(XXXV) ALTERNATE GENERATED STORAGE CREDIT UNDER SUBSECTION (U)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-SIX OF SECTION TWO HUNDRED TEN

S 6. This act shall take effect immediately; provided the provisions of sections two, three, four and five of this act shall expire and be deemed repealed January 1, 2018.