

6327--A

Cal. No. 291

2013-2014 Regular Sessions

I N A S S E M B L Y

March 25, 2013

Introduced by M. of A. SWEENEY, FARRELL, WEISENBERG, GLICK, COLTON, CYMBROWITZ, PEOPLES-STOKES, JAFFEE, KAVANAGH, SCHIMEL, TITONE, ZEBROWSKI, ABINANTI, ENGLEBRIGHT, CAHILL, MILLMAN, GALEF, PAULIN, DINOWITZ, ROSENTHAL, HEVESI, MARKEY, LUPARDO, OTIS, LIFTON, ROZIC, MOSLEY, GOTTFRIED, O'DONNELL, CLARK, SEPULVEDA, SKOUFIS, WEPRIN, STECK -- Multi-Sponsored by -- M. of A. BUCHWALD, JACOBS, KEARNS, LENTOL, PERRY, SKARTADOS, 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:

1 Section 1. Legislative findings. Global warming and the resulting
2 extreme weather events pose a serious threat to the economic well-being,
3 public health, natural resources and environment of New York.
4 Extreme weather events have become increasingly common, with Super-
5 storm Sandy, and hurricanes Lee and Irene providing the most recent
6 examples. The potential adverse impacts of global warming include the
7 exacerbation of air quality problems, a reduction in the quality and
8 supply of fresh water to the state, a rise in sea levels resulting in
9 the displacement of coastal businesses, residents and infrastructure,
10 damage to marine ecosystems and the natural environment, and an increase
11 in the incidences of infectious diseases, asthma, and other human
12 health-related problems. Global warming will have detrimental effects
13 on some of New York's largest industries, including agriculture, forestry,
14 tourism, skiing, and recreational and commercial fishing.
15 The Intergovernmental Panel on Climate Change, which received the
16 Nobel Peace Prize, determined that burning coal, oil and gas has led to
17 higher temperatures that are already impacting physical and biological
18 systems. The panel also projected temperatures would rise more rapidly

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

LBD09886-02-4

1 if greenhouse gases are not abated. The panel concluded that reducing
2 emissions 80 percent below current emissions by mid-century would
3 prevent the worst impacts of global warming.

4 Action taken by New York and other states to reduce emissions of
5 greenhouse gases will have far-reaching effects by encouraging the
6 federal government, and other countries to act including encouraging the
7 development of sustainable, non-polluting technologies such as solar,
8 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. DEFINITIONS.

14 19-1303. GREENHOUSE GAS REPORTING.

15 19-1305. GREENHOUSE GAS LIMITS.

16 S 19-1301. DEFINITIONS.

17 WHEN USED IN THIS TITLE:

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

22 2. "MAJOR GREENHOUSE GAS EMISSION SOURCE" MEANS ANY SOURCE OR CATEGORY
23 OF SOURCES OF GREENHOUSE GAS EMISSIONS, DETERMINED BY THE DEPARTMENT TO
24 BE CAPABLE OF BEING MONITORED FOR COMPLIANCE, AND SHALL AT A MINIMUM
25 INCLUDE EMISSIONS:

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

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

34 (C) STATIONARY SOURCES PERMITTED PURSUANT TO SECTION 19-0311 OF THIS
35 ARTICLE; AND

36 (D) FROM ANY ADDITIONAL ENTITIES THAT ARE EMITTERS OF GREENHOUSE
37 GASES, AS DETERMINED BY THE DEPARTMENT.

38 S 19-1303. GREENHOUSE GAS REPORTING.

39 1. NO LATER THAN MAY 1, 2015, THE DEPARTMENT SHALL PROMULGATE RULES
40 AND REGULATIONS REQUIRING ANNUAL GREENHOUSE GAS EMISSIONS REPORTING FROM
41 MAJOR GREENHOUSE GAS EMISSION SOURCES. THE REGULATIONS SHALL:

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

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

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

50 2. THE DEPARTMENT SHALL:

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

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

(C) PROVIDE COMPLIANCE ASSISTANCE TO SMALL BUSINESSES PURSUANT TO THE PROVISIONS OF SECTIONS 19-0313 AND 19-0315 OF THIS ARTICLE.

3. NO LATER THAN JANUARY 1, 2018, AND EVERY THREE YEARS THEREAFTER, THE DEPARTMENT SHALL ISSUE A REPORT ON:

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

(B) THE PROGRESS MADE BY THE DEPARTMENT IN ACHIEVING THE REQUIREMENTS OF SECTION 19-1305 OF THIS TITLE.

S 19-1305. GREENHOUSE GAS LIMITS.

1. NO LATER THAN JANUARY 1, 2017, THE DEPARTMENT, AFTER A PUBLIC HEARING, AND CONSULTATION WITH REPRESENTATIVES OF BUSINESS INTERESTS, COMMUNITY ORGANIZATIONS, ENVIRONMENTAL GROUPS, MUNICIPAL CORPORATIONS AND OTHER STAKEHOLDERS, 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) INITIALLY FOCUS UPON ENSURING STATE FACILITY COMPLIANCE;

(B) 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;

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

(D) 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.