

3842

2013-2014 Regular Sessions

I N   S E N A T E

February 21, 2013

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Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the executive law and the tax law, in relation to requiring motor fuel terminal facilities and wholesalers in the state to be capable of operating its distribution loading racks using an alternate generated power source for a minimum of seventy-two hours; 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:

1     Section 1. Subparagraph 3 of paragraph i and paragraph j of subdivi-  
2     sion 3 of section 21 of the executive law, as amended by section 2 of  
3     part B of chapter 56 of the laws of 2010, are amended and a new para-  
4     graph k is added to read as follows:  
5     (3) the status of the state and local plans for disaster preparedness  
6     and response, including the name of any locality which has failed or  
7     refused to develop and implement its own disaster preparedness plan and  
8     program; and the extent to which all forms of local emergency response  
9     assets have been included, and accounted for in planning and preparation  
10    for disaster preparedness and response; [and]  
11    j. develop public service announcements to be distributed to tele-  
12    vision and radio stations and other media throughout the state informing  
13    the public how to prepare and respond to disasters. Such public service  
14    announcements shall be distributed in English and such other languages  
15    as such commission deems appropriate[.];  
16    K. (1) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, CHAPTER OR ANY  
17    PROVISIONS TO THE CONTRARY CONTAINED IN ANY GENERAL, SPECIAL OR LOCAL  
18    LAWS, DESIGNATE MOTOR FUEL TERMINAL FACILITIES AND WHOLESALERS IN THE  
19    STATE THAT SHALL BE REQUIRED TO BE CAPABLE OF OPERATING ITS DISTRIBUTION  
20    LOADING RACKS USING AN ALTERNATE GENERATED POWER SOURCE FOR A MINIMUM OF

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

LBD09036-02-3

1 SEVENTY-TWO HOURS. PENDING A POST DISASTER EXAMINATION OF THE EQUIPMENT  
2 BY THE OPERATOR TO DETERMINE EXTENUATING DAMAGE THAT WOULD RENDER IT  
3 UNSAFE TO OPERATE AND ANY NECESSARY REPAIRS, THE FACILITY SHALL HAVE  
4 SUCH ALTERNATE GENERATED POWER SOURCE AVAILABLE FOR OPERATION NO LATER  
5 THAN THIRTY-SIX HOURS AFTER A MAJOR DISASTER. "MAJOR DISASTER" SHALL  
6 MEAN OCCURRENCE OR IMMINENT THREAT OF WIDESPREAD OR SEVERE DAMAGE, INJU-  
7 RY OR LOSS OF LIFE OR PROPERTY RESULTING FROM ANY NATURAL OR MAN-MADE  
8 CAUSES, INCLUDING, BUT NOT LIMITED TO, FIRE, FLOOD, EARTHQUAKE, HURRI-  
9 CANE, TORNADO, HIGH WATER, LANDSLIDE, MUDSLIDE, WIND, STORM, WAVE  
10 ACTION, VOLCANIC ACTIVITY, EPIDEMIC, AIR CONTAMINATION, TERRORISM, CYBER  
11 EVENT, BLIGHT, DROUGHT, INFESTATION, EXPLOSION, RADIOLOGICAL ACCIDENT,  
12 NUCLEAR, CHEMICAL, BIOLOGICAL OR BACTERIOLOGICAL RELEASE, WATER CONTAM-  
13 INATION, BRIDGE FAILURE OR BRIDGE COLLAPSE. INSTALLATION OF APPROPRIATE  
14 WIRING, INCLUDING A TRANSFER SWITCH, SHALL BE PERFORMED BY A CERTIFIED  
15 ELECTRICAL CONTRACTOR AND CERTIFIED AS OPERATIONAL BY THE LOCAL BUILDING  
16 INSPECTOR. EACH BUSINESS SHALL KEEP A COPY OF THE DOCUMENTATION OF SUCH  
17 INSTALLATION ON SITE OR AT ITS CORPORATE HEADQUARTERS. IN ADDITION, EACH  
18 BUSINESS SHALL KEEP A WRITTEN STATEMENT ATTESTING TO THE PERIODIC TEST-  
19 ING AND ENSURED OPERATIONAL CAPACITY OF THE EQUIPMENT. THE REQUIRED  
20 DOCUMENTS SHALL BE MADE AVAILABLE, UPON REQUEST, TO THE COMMISSION OR  
21 LOCAL EMERGENCY MANAGEMENT AGENCY.

22 (2) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, CHAPTER OR ANY  
23 PROVISIONS TO THE CONTRARY CONTAINED IN ANY GENERAL, SPECIAL OR LOCAL  
24 LAWS, DESIGNATE MOTOR FUEL RETAIL OUTLETS THROUGHOUT EACH DESIGNATED  
25 VULNERABLE COMMUNITY IN THE STATE THAT SHALL BE REQUIRED TO INSTALL  
26 APPROPRIATE WIRING, INCLUDING A TRANSFER SWITCH, NECESSARY FOR THE OPER-  
27 ATION OF AN ALTERNATE GENERATED POWER SOURCE CAPABLE OF OPERATING ALL  
28 FUEL PUMPS, DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS AND PAYMENT  
29 ACCEPTANCE SYSTEMS FOR A MINIMUM OF SEVENTY-TWO HOURS AND WHICH SHALL BE  
30 REQUIRED TO HAVE ACCESS TO SUCH ALTERNATE GENERATED POWER SOURCE. PEND-  
31 ING A POST DISASTER EXAMINATION OF THE EQUIPMENT BY THE OPERATOR TO  
32 DETERMINE EXTENUATING DAMAGE THAT WOULD RENDER IT UNSAFE TO OPERATE AND  
33 ANY NECESSARY REPAIRS, THE FACILITY SHALL HAVE SUCH ALTERNATE GENERATED  
34 POWER SOURCE AVAILABLE FOR OPERATION NO LATER THAN THIRTY-SIX HOURS  
35 AFTER A MAJOR DISASTER. "MAJOR DISASTER" SHALL MEAN OCCURRENCE OR IMMI-  
36 NENT THREAT OF WIDESPREAD OR SEVERE DAMAGE, INJURY OR LOSS OF LIFE OR  
37 PROPERTY RESULTING FROM ANY NATURAL OR MAN-MADE CAUSES, INCLUDING, BUT  
38 NOT LIMITED TO, FIRE, FLOOD, EARTHQUAKE, HURRICANE, TORNADO, HIGH WATER,  
39 LANDSLIDE, MUDSLIDE, WIND, STORM, WAVE ACTION, VOLCANIC ACTIVITY,  
40 EPIDEMIC, AIR CONTAMINATION, TERRORISM, CYBER EVENT, BLIGHT, DROUGHT,  
41 INFESTATION, EXPLOSION, RADIOLOGICAL ACCIDENT, NUCLEAR, CHEMICAL,  
42 BIOLOGICAL OR BACTERIOLOGICAL RELEASE, WATER CONTAMINATION, BRIDGE FAIL-  
43 URE OR BRIDGE COLLAPSE. INSTALLATION OF APPROPRIATE WIRING, INCLUDING A  
44 TRANSFER SWITCH, SHALL BE PERFORMED BY A CERTIFIED ELECTRICAL CONTRACTOR  
45 AND CERTIFIED AS OPERATIONAL BY THE LOCAL BUILDING INSPECTOR. EACH BUSI-  
46 NESS SHALL KEEP A COPY OF THE DOCUMENTATION OF SUCH INSTALLATION ON SITE  
47 OR AT ITS CORPORATE HEADQUARTERS. IN ADDITION, EACH BUSINESS SHALL KEEP  
48 A WRITTEN STATEMENT ATTESTING TO THE PERIODIC TESTING AND ENSURED OPERA-  
49 TIONAL CAPACITY OF THE EQUIPMENT. THE REQUIRED DOCUMENTS SHALL BE MADE  
50 AVAILABLE, UPON REQUEST, TO THE COMMISSION OR LOCAL EMERGENCY MANAGEMENT  
51 AGENCY. SUCH DESIGNATED OUTLETS: (I) SHALL BE LOCATED WITHIN ONE-HALF  
52 MILE PROXIMATE TO AN INTERSTATE HIGHWAY OR STATE OR FEDERALLY DESIGNATED  
53 EVACUATION ROUTE; OR

54 (II) SHALL BE IN LOCATIONS THAT, DUE TO THE TOPOGRAPHY OF THE AREA,  
55 DISTANCE TOWARDS OR AWAY FROM ANY BODY OF WATER, WETLAND OR PHYSICAL  
56 FEATURE, OR ANY OTHER CRITERIA ESTABLISHED BY THE COMMISSION, WOULD

REMAIN VIABLE LOCATIONS THAT COULD SAFELY AND EFFECTIVELY OPERATE BEFORE, DURING AND AFTER A DECLARATION OF AN EMERGENCY; OR

(III) SHALL BE IN LOCATIONS NEAR TRANSPORTATION HUBS AND OTHER SUITABLE AREAS WITHIN EACH REGION AND EACH COMMUNITY THAT, AFTER THE OCCURRENCE OF SUCH DISASTER, COULD BE VALUABLE TO ASSIST IN REGIONAL OR LOCAL RESCUE, RESPONSE, RECOVERY OR MITIGATION ACTIVITIES, INCLUDING BUT NOT LIMITED TO, MAKING AVAILABLE MOTOR FUEL TO EMERGENCY VEHICLES, EMERGENCY RESPONDERS, LAW ENFORCEMENT OR TRUCKS AND BUSES USED TO TRANSPORT RESCUE, RESPONSE AND RECOVERY MATERIAL OR PERSONNEL, AND TO SUPPORT THE LOCAL FUEL NEEDS OF EACH COMMUNITY FOR HEAT, COOKING, PORTABLE HOME GENERATOR, LAW ENFORCEMENT AND OTHER CRITICAL COMMUNITY NEEDS; OR

(IV) SHALL BE IN OTHER SUCH LOCATIONS THAT ARE DETERMINED BY THE COMMISSION TO BE VITAL TO POST DISASTER RESPONSE AND RECOVERY OPERATIONS;

(V) SHALL NOT INCLUDE AN AUTOMOBILE DEALER, A PERSON WHO OPERATES A FLEET OF MOTOR VEHICLES, A PERSON WHO SELLS MOTOR FUEL EXCLUSIVELY TO A FLEET OF MOTOR VEHICLES OR 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 ALTERNATE MEANS OF POWER GENERATION ONSITE SO THAT THE OUTLET'S FUEL PUMPS MAY BE OPERATED IN THE EVENT OF A POWER OUTAGE.

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

S 187-S. ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES CREDIT. (1) ALLOWANCE OF CREDIT. 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, TO BE COMPUTED AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION, AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES AT A MOTOR FUEL TERMINAL FACILITY, WHOLESALER OR MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE; PROVIDED, HOWEVER, THAT THE TAXPAYER SHALL NOT CLAIM MORE THAN ONE CREDIT FOR ANY ONE FACILITY.

(2) DEFINITIONS. FOR THE 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 THE GENERAL BUSINESS LAW;

(B) "WHOLESALER" AS DEFINED IN PARAGRAPH (L) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THE GENERAL BUSINESS LAW;

(C) "MOTOR FUEL RETAIL OUTLET" AS DEFINED IN PARAGRAPH (H) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THE GENERAL BUSINESS LAW;

(D) "QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES" SHALL MEAN: (I) COSTS INCURRED BY A MOTOR FUEL TERMINAL FACILITY, WHOLESALER OR MOTOR FUEL RETAIL OUTLET IN THE STATE ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN ASSOCIATED WITH THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE THAT IS CAPABLE OF OPERATING ALL DISTRIBUTION LOADING RACKS, FUEL PUMPS, DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS AND PAYMENT ACCEPTANCE SYSTEMS, AS APPLICABLE, FOR A MINIMUM OF SEVENTY-TWO HOURS; OR

(II) COSTS INCURRED BY A MOTOR FUEL RETAIL OUTLET IN THE STATE ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN FOR MATERIALS AND LABOR ASSOCIATED WITH THE INSTALLATION OF APPROPRIATE WIRING, INCLUDING A TRANSFER SWITCH, NECESSARY FOR

THE OPERATION OF AN ALTERNATE GENERATED POWER SOURCE THAT IS CAPABLE OF OPERATING ALL FUEL PUMPS, DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS AND PAYMENT ACCEPTANCE SYSTEMS FOR A MINIMUM OF SEVENTY-TWO HOURS;

(III) INSTALLATION OF APPROPRIATE WIRING AND TRANSFER SWITCHES SHALL BE PERFORMED BY A CERTIFIED ELECTRICAL CONTRACTOR AND CERTIFIED AS OPERATIONAL BY THE LOCAL BUILDING INSPECTOR;

(IV) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER FINANCE CHARGES;

(V) THE AMOUNT OF ANY FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE TAXPAYER, WHICH IS USED FOR QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES SHALL NOT BE INCLUDED IN THE AMOUNT OF SUCH QUALIFIED EXPENDITURES.

(3) AMOUNT OF CREDIT. THE AMOUNT OF CREDIT SHALL EQUAL FIFTY PERCENT OF QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES. SUCH CREDIT AMOUNT SHALL NOT EXCEED FIFTEEN THOUSAND DOLLARS FOR QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES AS PROVIDED IN SUBPARAGRAPH (I) OF PARAGRAPH (D) OF SUBDIVISION TWO OF THIS SECTION, OR FIVE THOUSAND DOLLARS FOR QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES AS PROVIDED IN SUBPARAGRAPH (II) OF PARAGRAPH (D) OF SUBDIVISION TWO OF THIS SECTION.

(4) CREDIT RECAPTURE. 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) CARRYOVER. 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. ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES CREDIT.

(1) ALLOWANCE OF CREDIT. 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, TO BE COMPUTED AS PROVIDED IN PARAGRAPH THREE OF THIS SUBDIVISION, AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES AT A MOTOR FUEL TERMINAL FACILITY, WHOLESALER OR MOTOR FUEL RETAIL OUTLET LOCATED IN THE STATE; PROVIDED, HOWEVER, THAT THE TAXPAYER SHALL NOT CLAIM MORE THAN ONE CREDIT FOR ANY ONE FACILITY.

(2) DEFINITIONS. FOR THE 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 THE GENERAL BUSINESS LAW;

(B) "WHOLESALER" AS DEFINED IN PARAGRAPH (L) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THE GENERAL BUSINESS LAW;

(C) "MOTOR FUEL RETAIL OUTLET" AS DEFINED IN PARAGRAPH (H) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THE GENERAL BUSINESS LAW;

(D) "QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES" SHALL MEAN: (I) COSTS INCURRED BY A MOTOR FUEL TERMINAL FACILITY,

1 WHOLESALER OR MOTOR FUEL RETAIL OUTLET IN THE STATE ON OR AFTER JANUARY  
2 FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND  
3 EIGHTEEN ASSOCIATED WITH THE PURCHASE AND INSTALLATION OF AN ALTERNATE  
4 GENERATED POWER SOURCE THAT IS CAPABLE OF OPERATING ALL DISTRIBUTION  
5 LOADING RACKS, FUEL PUMPS, DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS AND  
6 PAYMENT ACCEPTANCE SYSTEMS, AS APPLICABLE, FOR A MINIMUM OF SEVENTY-TWO  
7 HOURS; OR

8 (II) COSTS INCURRED BY A MOTOR FUEL RETAIL OUTLET IN THE STATE ON OR  
9 AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO  
10 THOUSAND EIGHTEEN FOR MATERIALS AND LABOR ASSOCIATED WITH THE INSTALLA-  
11 TION OF APPROPRIATE WIRING, INCLUDING A TRANSFER SWITCH, NECESSARY FOR  
12 THE OPERATION OF AN ALTERNATE GENERATED POWER SOURCE THAT IS CAPABLE OF  
13 OPERATING ALL FUEL PUMPS, DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS AND  
14 PAYMENT ACCEPTANCE SYSTEMS FOR A MINIMUM OF SEVENTY-TWO HOURS;

15 (III) INSTALLATION OF APPROPRIATE WIRING AND TRANSFER SWITCHES SHALL  
16 BE PERFORMED BY A CERTIFIED ELECTRICAL CONTRACTOR AND CERTIFIED AS OPER-  
17 ATIONAL BY THE LOCAL BUILDING INSPECTOR;

18 (IV) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER  
19 FINANCE CHARGES;

20 (V) THE AMOUNT OF ANY FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE  
21 TAXPAYER, WHICH IS USED FOR QUALIFIED ALTERNATE GENERATED POWER SOURCE  
22 EQUIPMENT EXPENDITURES SHALL NOT BE INCLUDED IN THE AMOUNT OF SUCH QUAL-  
23 IFIED EXPENDITURES.

24 (3) AMOUNT OF CREDIT. THE AMOUNT OF CREDIT SHALL EQUAL FIFTY PERCENT  
25 OF QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES.  
26 SUCH CREDIT AMOUNT SHALL NOT EXCEED FIFTEEN THOUSAND DOLLARS FOR QUALI-  
27 FIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES AS PROVIDED  
28 IN CLAUSE (I) OF SUBPARAGRAPH (D) OF PARAGRAPH TWO OF THIS SUBDIVISION,  
29 OR FIVE THOUSAND DOLLARS FOR QUALIFIED ALTERNATE GENERATED POWER SOURCE  
30 EQUIPMENT EXPENDITURES AS PROVIDED IN CLAUSE (II) OF SUBPARAGRAPH (D) OF  
31 PARAGRAPH TWO OF THIS SUBDIVISION.

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

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

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

47 (U) ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES CREDIT.  
48 (1) ALLOWANCE OF CREDIT. FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER  
49 JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOU-  
50 SAND EIGHTEEN THERE SHALL BE ALLOWED AS A CREDIT, TO BE COMPUTED AS  
51 PROVIDED IN PARAGRAPH THREE OF THIS SECTION, AGAINST THE TAX IMPOSED BY  
52 THIS ARTICLE FOR QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT  
53 EXPENDITURES AT A MOTOR FUEL TERMINAL FACILITY, WHOLESALER OR MOTOR FUEL  
54 RETAIL OUTLET LOCATED IN THE STATE; PROVIDED, HOWEVER, THAT THE TAXPAYER  
55 SHALL NOT CLAIM MORE THAN ONE CREDIT FOR ANY ONE FACILITY.

(2) DEFINITIONS. FOR THE 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 THE GENERAL BUSINESS LAW;

(B) "WHOLESALE" AS DEFINED IN PARAGRAPH (L) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THE GENERAL BUSINESS LAW;

(C) "MOTOR FUEL RETAIL OUTLET" AS DEFINED IN PARAGRAPH (H) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-NINE-EE OF THE GENERAL BUSINESS LAW;

(D) "QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES" SHALL MEAN: (I) COSTS INCURRED BY A MOTOR FUEL TERMINAL FACILITY, WHOLESALE OR MOTOR FUEL RETAIL OUTLET IN THE STATE ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN ASSOCIATED WITH THE PURCHASE AND INSTALLATION OF AN ALTERNATE GENERATED POWER SOURCE THAT IS CAPABLE OF OPERATING ALL DISTRIBUTION LOADING RACKS, FUEL PUMPS, DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS AND PAYMENT ACCEPTANCE SYSTEMS, AS APPLICABLE, FOR A MINIMUM OF SEVENTY-TWO HOURS;

(II) COSTS INCURRED BY A MOTOR FUEL RETAIL OUTLET IN THE STATE ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN FOR MATERIALS AND LABOR ASSOCIATED WITH THE INSTALLATION OF APPROPRIATE WIRING, INCLUDING A TRANSFER SWITCH, NECESSARY FOR THE OPERATION OF AN ALTERNATE GENERATED POWER SOURCE THAT IS CAPABLE OF OPERATING ALL FUEL PUMPS, DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS AND PAYMENT ACCEPTANCE SYSTEMS FOR A MINIMUM OF SEVENTY-TWO HOURS;

(III) INSTALLATION OF APPROPRIATE WIRING AND TRANSFER SWITCHES SHALL BE PERFORMED BY A CERTIFIED ELECTRICAL CONTRACTOR AND CERTIFIED AS OPERATIONAL BY THE LOCAL BUILDING INSPECTOR;

(IV) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER FINANCE CHARGES;

(V) THE AMOUNT OF ANY FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE TAXPAYER, WHICH IS USED FOR QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES SHALL NOT BE INCLUDED IN THE AMOUNT OF SUCH QUALIFIED EXPENDITURES.

(3) AMOUNT OF CREDIT. THE AMOUNT OF CREDIT SHALL EQUAL FIFTY PERCENT OF QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES. SUCH CREDIT AMOUNT SHALL NOT EXCEED FIFTEEN THOUSAND DOLLARS FOR QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES AS PROVIDED IN CLAUSE (I) OF SUBPARAGRAPH (D) OF PARAGRAPH TWO OF THIS SUBSECTION, OR FIVE THOUSAND DOLLARS FOR QUALIFIED ALTERNATE GENERATED POWER SOURCE EQUIPMENT EXPENDITURES AS PROVIDED IN CLAUSE (II) OF SUBPARAGRAPH (D) OF PARAGRAPH TWO OF THIS SUBSECTION.

(4) CREDIT RECAPTURE. IF AN ALTERNATE GENERATED POWER SOURCE FOR WHICH A CREDIT IS ALLOWED PURSUANT TO THIS SUBSECTION 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 SUBSECTION 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) CARRYOVER. 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.

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

4 (XXXV) ALTERNATE GENERATED POWER	AMOUNT OF CREDIT UNDER
5 SOURCE EQUIPMENT EXPENDITURES	SUBDIVISION FORTY-SIX OF
6 CREDIT UNDER SUBSECTION (U)	SECTION TWO HUNDRED TEN

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