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

2094--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. ENGLEBRIGHT, DINOWITZ, SCARBOROUGH, WEISENBERG, ZEBROWSKI, GABRYSZAK, BOYLAND, COOK, LAVINE, MOYA, V. LOPEZ -- Multi-Sponsored by -- M. of A. BRENNAN -- read once and referred to the Committee on Economic Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive 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. Subdivision 3 of section 21 of the executive law is amended by adding a new paragraph k to read as follows:

K. DESIGNATE RETAIL MOTOR FUEL, DIESEL MOTOR FUEL, KEROSENE STATIONS AND MOTOR FUEL TERMINAL FACILITIES THROUGHOUT EACH DESIGNATED VULNERABLE COMMUNITY IN THE STATE THAT SHALL BE REQUIRED TO BE CAPABLE OF OPERATING ITS FUEL PUMPS, DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS AND PAYMENT ACCEPTANCE EQUIPMENT USING AN ALTERNATE GENERATED POWER SOURCE. SUCH ALTERNATE GENERATED POWER SOURCE SHALL BE AVAILABLE NO LATER THAN TWENTY-FOUR HOURS AFTER A MAJOR DISASTER. EACH DESIGNATED STATION SHALL BE EQUIPPED WITH APPROPRIATE WIRING AND TRANSFER SWITCH WHICH SHALL BE INSTALLED BY A CERTIFIED ELECTRICAL CONTRACTOR. EACH DESIGNATED STATION SHALL KEEP A COPY OF THE DOCUMENTATION OF SUCH INSTALLATION ON SITE OR AT ITS CORPORATE HEADQUARTERS. EACH DESIGNATED STATION 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 EMERGENCY MANAGEMENT AGENCY. THE CRITERIA TO BE USED BY THE COMMISSION IN DESIGNATING SUCH RETAIL STATIONS AND THE LOCATION THEREOF INCLUDE BUT ARE NOT LIMITED TO:

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

LBD04410-03-3

(1) LOCATIONS NEAR MAJOR VEHICULAR TRANSPORTATION ROUTES OR DESIGNATED EVACUATION ROUTES TO FACILITATE THE EVACUATION OF PERSONS AWAY FROM THE DESIGNATED DISASTER AREA OR TOWARDS THE SAFETY OF EMERGENCY TEMPORARY SHELTERS;

(2) FACILITY LOCATIONS THAT, DUE TO THE TOPOGRAPHY OF THE AREA, DISTANCE TOWARDS OR AWAY FROM ANY BODY OF WATER, WETLAND OR PHYSICAL FEATURE, OR ANY OTHER CRITERIA ESTABLISHED BY THE COMMISSION WOULD REMAIN VIABLE LOCATIONS THAT COULD SAFELY AND EFFECTIVELY OPERATE BEFORE, DURING AND AFTER A DESIGNATED DECLARATION OF AN EMERGENCY; AND

(3) 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, MITIGATE 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.

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 PARAGRAPH K OF SUBDIVISION THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE 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 TWENTY 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 PARAGRAPH K OF SUBDIVISION THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE LAW.

(B) 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.

(C) 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 PARAGRAPH K OF SUBDIVISION THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE 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 TWENTY 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 PARAGRAPH K OF SUBDIVISION THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE LAW.

(B) 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.

(C) 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 PARAGRAPH K OF SUBDIVISION THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE 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 TWENTY 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 PARAGRAPH K OF SUBDIVISION THREE OF SECTION TWENTY-ONE OF THE EXECUTIVE LAW.

(2) 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.

(3) 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.