

3293

2013-2014 Regular Sessions

I N S E N A T E

January 31, 2013

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the use of ultra low sulfur diesel fuel and best available technology by the state

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

1 Section 1. Section 19-0323 of the environmental conservation law, as
2 added by chapter 629 of the laws of 2006, subdivision 3 as amended by
3 section 1 of part EE of chapter 58 of the laws of 2012, subdivision 5 as
4 added and subdivisions 6, 7 and 8 as renumbered by section 1 of part C
5 of chapter 59 of the laws of 2010, is amended to read as follows:
6 S 19-0323. Use of ultra low sulfur diesel fuel and best available tech-
7 nology by the state.
8 1. As used in this section, the terms:
9 a. "Ultra low sulfur diesel fuel" means diesel fuel having sulfur
10 content of 0.0015 per cent of sulfur or less.
11 b. "Heavy duty vehicle" or "vehicle" means any on and off-road vehicle
12 powered by diesel fuel and having a gross vehicle weight of greater than
13 8,500 pounds, except that those vehicles defined in section 101 of the
14 vehicle and traffic law, paragraph 2 of schedule E and paragraph (a) of
15 schedule F of subdivision 7 of section 401 of such law, and vehicles
16 specified in subdivision 13 of section 401 of such law, and farm type
17 tractors and all terrain type vehicles used exclusively for agricultural
18 or mowing purposes, or for snow plowing, other than for hire, farm
19 equipment, including self-propelled machines used exclusively in grow-
20 ing, harvesting or handling farm produce, and self-propelled caterpillar
21 or crawler-type equipment while being operated on the contract site, and
22 timber harvesting equipment such as harvesters, wood chippers, forward-
23 ers, log skidders, and other processing equipment used exclusively off
24 highway for timber harvesting and logging purposes, shall not be deemed

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

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1 heavy duty vehicles for purposes of this section. This term shall not
2 include vehicles that are specially equipped for emergency response by
3 the department, office of emergency management, sheriff's office of the
4 department of finance, police department or fire department.

5 c. "Best available retrofit technology" means technology, verified by
6 the United States environmental protection agency for reducing the emis-
7 sion of pollutants that achieves reductions in particulate matter emis-
8 sions at the highest classification level for diesel emission control
9 strategies that is applicable to the particular engine and application.
10 Such technology shall also, at a reasonable cost, achieve the greatest
11 reduction in emissions of nitrogen oxides at such particulate matter
12 reduction level and shall in no event result in a net increase in the
13 emissions of either particulate matter or nitrogen oxides.

14 d. "Reasonable cost" means that such technology does not cost greater
15 than 30 percent more than other technology applicable to the particular
16 engine and application that falls within the same classification level
17 for diesel emission control strategies, as set forth in paragraph c of
18 this subdivision, when considering the cost of the strategies, them-
19 selves, and the cost of installation.

20 2. Any diesel powered heavy duty vehicle that is owned by, operated by
21 [or on behalf of,] or leased by a state agency and state and regional
22 public authority shall be powered by ultra low sulfur diesel fuel.

23 3. Any diesel powered heavy duty vehicle that is owned by, operated by
24 [or on behalf of,] or leased by a state agency and state and regional
25 public authority with more than half of its governing body appointed by
26 the governor shall utilize the best available retrofit technology for
27 reducing the emission of pollutants. The commissioner shall promulgate
28 regulations for the implementation of this subdivision specifying that
29 all vehicles covered by this subdivision shall have best available
30 retrofit technology on or before December 31, [2013] 2015.

31 This subdivision shall not apply to any vehicle subject to a lease or
32 public works contract entered into or renewed prior to the effective
33 date of this section.

34 4. In addition to other provisions for regulations in this section,
35 the commissioner shall promulgate regulations as necessary and appropri-
36 ate to carry out the provisions of this act including but not limited to
37 provision for waivers upon written finding by the commissioner that (a)
38 best available retrofit technology for reducing the emissions of pollu-
39 tants as required by subdivision 3 of this section is not available for
40 a particular vehicle or class of vehicles and (b) that ultra low sulfur
41 diesel fuel is not available.

42 5. In addition to any waiver which may be issued pursuant to subdivi-
43 sion four of this section, the department shall issue a waiver to a
44 state agency[,] OR a state or regional public authority, [or a person
45 operating any diesel-powered heavy duty vehicle on behalf of a state
46 agency, state or regional public authority,] upon a request in a form
47 acceptable to the department for a waiver from the provisions of subdivi-
48 sion three of this section for a vehicle engine provided that such
49 vehicle engine will cease to be used in the state on or before December
50 thirty-first, two thousand thirteen. Any waiver issued pursuant to this
51 subdivision shall expire when a state agency[, a state or regional
52 public authority, or a person operating any diesel-powered heavy duty
53 vehicle on behalf of a state agency,] OR A state or regional public
54 authority ceases to use the engine in the state but not later than
55 December thirty-first, two thousand [thirteen] EIGHTEEN.

1 6. This section shall not apply where federal law or funding precludes
2 the state from imposing the requirements of this section.

3 7. On or before January 1, 2008 and every year thereafter, the commis-
4 sioner shall report to the governor and legislature on the use of ultra
5 low sulfur diesel fuel [and the use of the best available retrofit tech-
6 nology as required under this section]. ON OR BEFORE JANUARY 1, 2016
7 AND EVERY YEAR THEREAFTER, THE COMMISSIONER SHALL INCLUDE IN THE REPORT
8 TO THE GOVERNOR AND LEGISLATURE THE USE OF THE BEST AVAILABLE RETROFIT
9 TECHNOLOGY AS REQUIRED UNDER THIS SECTION. The information contained in
10 this report shall include, but not be limited to, for each state agency
11 and public authority covered by this section: (a) the total number of
12 diesel fuel-powered motor vehicles owned or operated by such agency and
13 authority; (b) the number of such motor vehicles that were powered by
14 ultra low sulfur diesel fuel; (c) the total number of diesel fuel-pow-
15 ered motor vehicles owned or operated by such agency and authority
16 having a gross vehicle weight rating of more than 8,500 pounds; (d) the
17 number of such motor vehicles that utilized the best available retrofit
18 technology, including a breakdown by motor vehicle model, engine year
19 and the type of technology used for each vehicle; (e) the number of such
20 motor vehicles that are equipped with an engine certified to the appli-
21 cable 2007 United States environmental protection agency standard for
22 particulate matter as set forth in section 86.007-11 of title 40 of the
23 code of federal regulations or to any subsequent United States environ-
24 mental protection agency standard for particulate matter that is at
25 least as stringent; and (f) all waivers, findings, and renewals of such
26 findings, which, for each waiver, shall include, but not be limited to,
27 the quantity of diesel fuel needed to power diesel fuel-powered motor
28 vehicles owned or operated by such agency and authority; specific infor-
29 mation concerning the availability of ultra low sulfur diesel fuel.

30 8. The department shall, to the extent practicable, coordinate with
31 regions which have proposed or adopted heavy duty emission inspection
32 programs to promote regional consistency in such programs.

33 S 2. This act shall take effect immediately.