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

7553--A

I N S E N A T E

May 9, 2016

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to bio heating fuel requirements

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

Section 1. The environmental conservation law is amended by adding a new section 19-0327 to read as follows:

S 19-0327. BIO HEATING FUEL REQUIREMENTS.

(1) DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "BIODIESEL" SHALL MEAN A FUEL, DESIGNATED B100, THAT MEETS THE SPECIFICATIONS OF THE AMERICAN SOCIETY FOR TESTING AND MATERIALS DESIGNATION D6751 COMPOSED EXCLUSIVELY OF MONO-ALKYL ESTERS OF LONG CHAIN FATTY ACIDS DERIVED FROM FEEDSTOCK.

(B) "BIO HEATING FUEL" SHALL MEAN A FUEL COMPRISED OF BIODIESEL BLENDED WITH PETROLEUM HEATING OIL THAT MEETS THE SPECIFICATIONS OF THE AMERICAN SOCIETY FOR TESTING AND MATERIALS DESIGNATION D396 OR OTHER SPECIFICATIONS AS DETERMINED BY THE COMMISSIONER.

(C) "HEATING OIL" SHALL MEAN PETROLEUM OIL REFINED FOR THE PURPOSE OF USE AS FUEL FOR COMBUSTION IN A SPACE AND/OR WATER HEATING SYSTEM THAT MEETS THE SPECIFICATIONS OF THE AMERICAN SOCIETY FOR TESTING AND MATERIALS DESIGNATION D396 OR OTHER SPECIFICATIONS AS DETERMINED BY THE COMMISSIONER.

(D) "FEEDSTOCK" SHALL MEAN SOYBEAN OIL, OIL FROM ANNUAL COVER CROPS, ALGAL OIL, BIOGENIC WASTE OILS, FATS OR GREASES, OR NON-FOOD GRADE CORN OIL, PROVIDED THAT THE COMMISSIONER MAY, BY RULES AND REGULATIONS, MODIFY THE DEFINITION OF FEEDSTOCK BASED ON THE VEGETABLE OILS, ANIMAL FATS OR CELLULOSIC BIOMASS LISTED IN TABLE 1 OF 40 C.F.R. S 80.1426, PROVIDED THAT ANY FEEDSTOCK HAS A CLOUD POINT MEASUREMENT OF LESS THAN EIGHTEEN DEGREES CELSIUS.

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

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(2) ALL HEATING OIL SOLD FOR USE IN ANY BUILDING IN THE STATE SHALL BE BIO HEATING FUEL THAT CONTAINS AT LEAST TWO PERCENT BIODIESEL, ONCE BIODIESEL PRODUCTION OF ASTM 6751 IN THIS STATE REACHES TWELVE MILLION GALLONS ON AN ANNUALIZED BASIS FOR THREE MONTHS. ALL HEATING OIL SOLD FOR USE IN ANY BUILDING IN THE STATE SHALL BE BIO HEATING FUEL THAT CONTAINS AT LEAST FIVE PERCENT BIODIESEL, ONCE BIODIESEL PRODUCTION OF ASTM 6751 IN THIS STATE REACHES THIRTY MILLION GALLONS ON AN ANNUALIZED BASIS FOR THREE MONTHS. SUCH PRODUCTION GALLON LEVELS SHALL BE MONITORED AND CERTIFIED BY THE NEW YORK ENERGY RESEARCH AND DEVELOPMENT AUTHORITY BASED ON THE U.S. ENERGY INFORMATION ADMINISTRATION'S ADJUSTED SALES OF DISTILLATE FUEL OIL BY END USER TOTAL FOR RESIDENTIAL AND COMMERCIAL GALLONS. SUCH BLENDING REQUIREMENTS SHALL TAKE EFFECT ONE HUNDRED EIGHTY DAYS AFTER THE CERTIFICATION BY THE NEW YORK ENERGY RESEARCH AND DEVELOPMENT AUTHORITY.

(3) THE GOVERNOR MAY, BY ISSUING AN EXECUTIVE ORDER, TEMPORARILY SUSPEND THE APPLICABILITY OF THIS SECTION AT ANY TIME BASED ON THE GOVERNOR'S DETERMINATION, AFTER CONSULTING WITH THE NEW YORK ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND THE DEPARTMENT, THAT MEETING THE REQUIREMENT OF SUBDIVISION TWO OF THIS SECTION IS NOT FEASIBLE DUE TO LACK OF ADEQUATE SUPPLY OF BIODIESEL OR THAT MEETING THE REQUIREMENT WOULD RESULT IN UNDUE FINANCIAL HARDSHIP TO CONSUMERS.

(4) THE REQUIREMENTS OF THIS SECTION SHALL NOT: (A) PROHIBIT THE SALE AND USE OF BIO HEATING FUEL WITH THE SAME OR ANY GREATER PERCENTAGE OF BIODIESEL BLENDED WITH HEATING OIL, OR THE SALE AND USE OF ONE HUNDRED PERCENT BIODIESEL, FOR SPACE AND/OR WATER HEATING PURPOSES IN THE STATE; AND (B) PREEMPT ANY LAWS OF THE CITY OF NEW YORK WITH RESPECT TO MANDATED PERCENTAGE LEVELS OF BIODIESEL BLENDS WITH HEATING OIL PROVIDED THAT SUCH LAWS REQUIRE THE SAME OR GREATER PERCENTAGE OF BIODIESEL BLENDED WITH HEATING OIL AS REQUIRED BY THIS SECTION.

S 2. This act shall take effect immediately.