

4208--A

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 29, 2015

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Introduced by M. of A. SCHIMMINGER -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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, subdivisions 3 and 5 as  
3 amended by section 1 of part DD of chapter 57 of the laws of 2014,  
4 subdivisions 6 and 8 as renumbered by section 1 of part C of chapter 59  
5 of the laws of 2010, and subdivision 7 as amended by section 2 of part  
6 DD of chapter 57 of the laws of 2014, is amended to read as follows:  
7 S 19-0323. Use of ultra low sulfur diesel fuel and best available tech-  
8 nology by the state.  
9     1. As used in this section, the terms:  
10     a. "Ultra low sulfur diesel fuel" means diesel fuel having sulfur  
11 content of 0.0015 per cent of sulfur or less.  
12     b. "Heavy duty vehicle" or "vehicle" means any on and off-road vehicle  
13 powered by diesel fuel and having a gross vehicle weight of greater than  
14 8,500 pounds, except that those vehicles defined in section 101 of the  
15 vehicle and traffic law, paragraph 2 of schedule E and paragraph (a) of  
16 schedule F of subdivision 7 of section 401 of such law, and vehicles  
17 specified in subdivision 13 of section 401 of such law, and farm type  
18 tractors and all terrain type vehicles used exclusively for agricultural  
19 or mowing purposes, or for snow plowing, other than for hire, farm  
20 equipment, including self-propelled machines used exclusively in grow-  
21 ing, harvesting or handling farm produce, and self-propelled caterpillar  
22 or crawler-type equipment while being operated on the contract site, and

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

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1 timber harvesting equipment such as harvesters, wood chippers, forward-  
2 ers, log skidders, and other processing equipment used exclusively off  
3 highway for timber harvesting and logging purposes, shall not be deemed  
4 heavy duty vehicles for purposes of this section. This term shall not  
5 include vehicles that are specially equipped for emergency response by  
6 the department, office of emergency management, sheriff's office of the  
7 department of finance, police department or fire department.

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

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

23 2. 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 shall be powered by ultra low sulfur diesel fuel.

26 3. Any diesel powered heavy duty vehicle that is owned by, operated by  
27 [or on behalf of,] or leased by a state agency and state and regional  
28 public authority with more than half of its governing body appointed by  
29 the governor shall utilize the best available retrofit technology for  
30 reducing the emission of pollutants. The commissioner shall promulgate  
31 regulations for the implementation of this subdivision specifying that  
32 all vehicles covered by this subdivision shall have best available  
33 retrofit technology on or before December 31, [2015] 2017.

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

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

45 5. In addition to any waiver which may be issued pursuant to subdivi-  
46 sion four of this section, the department shall issue a waiver to a  
47 state agency[, ] OR a state or regional public authority, [or a person  
48 operating any diesel-powered heavy duty vehicle on behalf of a state  
49 agency, state or regional public authority,] upon a request in a form  
50 acceptable to the department for a waiver from the provisions of subdivi-  
51 sion three of this section for a vehicle engine provided that such  
52 vehicle engine will cease to be used in the state on or before December  
53 thirty-first, two thousand [sixteen] TWENTY. Any waiver issued pursuant  
54 to this subdivision shall expire when a state agency[, a state or  
55 regional public authority, or a person operating any diesel-powered  
56 heavy duty vehicle on behalf of a state agency,] OR A state or regional

1 public authority ceases to use the engine in the state but not later  
2 than December thirty-first, two thousand [sixteen] TWENTY.

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

5 7. On or before January 1, 2008 and every year thereafter, the commis-  
6 sioner shall report to the governor and legislature on the use of ultra  
7 low sulfur diesel fuel. On or before January 1, [2016] 2018 and every  
8 year thereafter, the commissioner shall include in the report to the  
9 governor and legislature the use of the best available retrofit technol-  
10 ogy as required under this section. The information contained in this  
11 report shall include, but not be limited to, for each state agency and  
12 public authority covered by this section: (a) the total number of diesel  
13 fuel-powered motor vehicles owned or operated by such agency and author-  
14 ity; (b) the number of such motor vehicles that were powered by ultra  
15 low sulfur diesel fuel; (c) the total number of diesel fuel-powered  
16 motor vehicles owned or operated by such agency and authority having a  
17 gross vehicle weight rating of more than 8,500 pounds; (d) the number of  
18 such motor vehicles that utilized the best available retrofit technolo-  
19 gy, including a breakdown by motor vehicle model, engine year and the  
20 type of technology used for each vehicle; (e) the number of such motor  
21 vehicles that are equipped with an engine certified to the applicable  
22 2007 United States environmental protection agency standard for particu-  
23 late matter as set forth in section 86.007-11 of title 40 of the code of  
24 federal regulations or to any subsequent United States environmental  
25 protection agency standard for particulate matter that is at least as  
26 stringent; and (f) all waivers, findings, and renewals of such findings,  
27 which, for each waiver, shall include, but not be limited to, the quan-  
28 tity of diesel fuel needed to power diesel fuel-powered motor vehicles  
29 owned or operated by such agency and authority; specific information  
30 concerning the availability of ultra low sulfur diesel fuel.

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

34 S 2. This act shall take effect immediately.