

6070--A

2015-2016 Regular Sessions

I N A S S E M B L Y

March 11, 2015

Introduced by M. of A. ENGLEBRIGHT, COLTON, LIFTON, SCHIMEL, CRESPO, GOTTFRIED, GALEF, ROSENTHAL, ARROYO, COOK, SIMON, STIRPE, ABBATE, DINOWITZ, KAMINSKY, HEVESI, ABINANTI, QUART, FAHY, LENTOL, SEAWRIGHT -- Multi-Sponsored by -- M. of A. BLAKE, BRENNAN, BROOK-KRASNY, CLARK, DenDEKKER, JAFFEE, MARKEY, MILLER, MOYA, PEOPLES-STOKES, RIVERA, ROBINSON, RODRIGUEZ, SIMOTAS, SOLAGES, THIELE, WALKER, WRIGHT -- read once and referred to the Committee on Environmental Conservation -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law and the tax law, in relation to bioheating fuel

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

1 Section 1. The environmental conservation law is amended by adding a
2 new section 19-0327 to read as follows:
3 S 19-0327. BIOHEATING FUEL REQUIREMENTS.
4 (1) DEFINITIONS. FOR THE PURPOSE OF THIS SECTION, THE FOLLOWING TERMS
5 SHALL HAVE THE FOLLOWING MEANINGS:
6 (A) "BIODIESEL" SHALL MEAN A FUEL, DESIGNATED B100, THAT MEETS THE
7 SPECIFICATIONS OF THE AMERICAN SOCIETY FOR TESTING AND MATERIALS DESIGNATION D6751 COMPOSED EXCLUSIVELY OF MONO-ALKYL ESTERS OF LONG CHAIN
8 FATTY ACIDS DERIVED FROM FEEDSTOCK.
9 (B) "BIOHEATING FUEL" SHALL MEAN A FUEL COMPRISED OF BIODIESEL BLENDED
10 WITH PETROLEUM HEATING OIL THAT MEETS THE SPECIFICATIONS OF THE AMERICAN
11 SOCIETY FOR TESTING AND MATERIALS DESIGNATION D396 OR OTHER SPECIFICATIONS AS DETERMINED BY THE COMMISSIONER.
12 (C) "HEATING OIL" SHALL MEAN PETROLEUM OIL REFINED FOR THE PURPOSE OF
13 USE AS FUEL FOR COMBUSTION IN A SPACE AND/OR WATER HEATING SYSTEM THAT
14 MEETS THE SPECIFICATIONS OF THE AMERICAN SOCIETY FOR TESTING AND MATERIALS
15 DESIGNATION D396 OR OTHER SPECIFICATIONS AS DETERMINED BY THE COMMISSIONER.
16 MEETS THE SPECIFICATIONS OF THE AMERICAN SOCIETY FOR TESTING AND MATERIALS

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

LBD09895-02-5

1 ALS DESIGNATION D396 OR OTHER SPECIFICATIONS AS DETERMINED BY THE
2 COMMISSIONER.

3 (D) "FEEDSTOCK" SHALL MEAN SOYBEAN OIL, OIL FROM ANNUAL COVER CROPS,
4 ALGAL OIL, BIOGENIC WASTE OILS, FATS OR GREASES, OR NON-FOOD GRADE CORN
5 OIL, PROVIDED THAT THE COMMISSIONER MAY, BY RULES AND REGULATIONS, MODI-
6 FY THE DEFINITION OF FEEDSTOCK BASED ON THE VEGETABLE OILS, ANIMAL FATS
7 OR CELLULOSIC BIOMASS LISTED IN TABLE 1 OF 40 C.F.R. S 80.1426.

8 (2) ON AND AFTER JULY FIRST, TWO THOUSAND SEVENTEEN, ALL HEATING OIL
9 SOLD FOR USE IN ANY BUILDING IN THE STATE SHALL BE BIOHEATING FUEL THAT
10 CONTAINS AT LEAST TWO PERCENT BIODIESEL.

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

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

26 S 2. Paragraph (a) and subparagraph (ii) of paragraph (b) of subdivi-
27 sion 25 of section 210-B of the tax law, as added by section 17 of part
28 A of chapter 59 of the laws of 2014, are amended to read as follows:

29 (a) General. A taxpayer shall be allowed a credit against the tax
30 imposed by this article. Such credit, to be computed as hereinafter
31 provided, shall be allowed for [bioheat] BIOHEATING FUEL, used for space
32 heating or hot water production for residential purposes within this
33 state purchased before January first, two thousand seventeen. Such cred-
34 it shall be \$0.01 per percent of biodiesel per gallon of [bioheat]
35 BIOHEATING FUEL, not to exceed twenty cents per gallon, purchased by
36 such taxpayer.

37 (ii) ["Bioheat"] "BIOHEATING FUEL" shall mean a fuel comprised of
38 biodiesel blended with conventional home heating oil, which meets the
39 specifications of the American Society of Testing and Materials desig-
40 nation D 396 or D 975.

41 S 3. Paragraph 1 and subparagraph (b) of paragraph 2 of subsection
42 (mm) of section 606 of the tax law, paragraph 1 as amended by chapter
43 193 of the laws of 2012 and subparagraph (b) of paragraph 2 as added by
44 section 2 of part D of chapter 35 of the laws of 2006, are amended to
45 read as follows:

46 (1) A taxpayer shall be allowed a credit against the tax imposed by
47 this article. Such credit, to be computed as hereinafter provided, shall
48 be allowed for [bioheat] BIOHEATING FUEL, used for space heating or hot
49 water production for residential purposes within this state and
50 purchased on or after July first, two thousand six and before July
51 first, two thousand seven and on or after January first, two thousand
52 eight and before January first, two thousand seventeen. Such credit
53 shall be \$0.01 per percent of biodiesel per gallon of [bioheat] BIOHEAT-
54 ING FUEL, not to exceed twenty cents per gallon, purchased by such
55 taxpayer.

1 (b) ["Bioheat"] "BIOHEATING FUEL" shall mean a fuel comprised of biod-
2 iesel blended with conventional home heating oil, which meets the spec-
3 ifications of the American Society of Testing and Materials designation
4 D 396 or D 975.

5 S 4. The department of environmental conservation, in consultation
6 with the New York state energy research and development authority, shall
7 examine the supply and cost of bioheating fuel, and shall submit a
8 report on the findings of such examination to the governor and the
9 legislature on or before December 1, 2016.

10 S 5. This act shall take effect immediately, except that sections one,
11 two and three of this act shall take effect July 1, 2017.