

6070--B

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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, RAI, LINARES, ORTIZ -- Multi-Sponsored by -- M. of A. BLAKE, BRENNAN, DenDEKKER, GARBARINO, JAFFEE, MARKEY, MILLER, MOYA, PEOPLES-STOKES, RIVERA, ROBINSON, RODRIGUEZ, SIMOTAS, SOLAGES, STECK, 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 -- ordered to a third reading -- amended and ordered reprinted, retaining its place on the order of third reading

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
15

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

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1 MEETS THE SPECIFICATIONS OF THE AMERICAN SOCIETY FOR TESTING AND MATERI-
2 ALS DESIGNATION D396 OR OTHER SPECIFICATIONS AS DETERMINED BY THE
3 COMMISSIONER.

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

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

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

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

27 S 2. Paragraph (a) and subparagraph (ii) of paragraph (b) of subdivi-
28 sion 25 of section 210-B of the tax law, paragraph (a) as amended by
29 section 1 of part N of chapter 60 of the laws of 2016 and subparagraph
30 (ii) of paragraph (b) as added by section 17 of part A of chapter 59 of
31 the laws of 2014, are amended to read as follows:

32 (a) General. A taxpayer shall be allowed a credit against the tax
33 imposed by this article. Such credit, to be computed as hereinafter
34 provided, shall be allowed for [bioheat] BIOHEATING FUEL, used for space
35 heating or hot water production for residential purposes within this
36 state purchased before January first, two thousand twenty. Such credit
37 shall be \$0.01 per percent of biodiesel per gallon of [bioheat] BIOHEAT-
38 ING FUEL, not to exceed twenty cents per gallon, purchased by such
39 taxpayer. Provided, however, that on or after January first, two thou-
40 sand seventeen, this credit shall not apply to [bioheat] BIOHEATING FUEL
41 that is less than six percent biodiesel per gallon of [bioheat] BIOHEAT-
42 ING FUEL.

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

47 S 3. Paragraph 1 and subparagraph (b) of paragraph 2 of subsection
48 (mm) of section 606 of the tax law, paragraph 1 as amended by section 2
49 of part N of chapter 60 of the laws of 2016 and subparagraph (b) of
50 paragraph 2 as added by section 2 of part D of chapter 35 of the laws of
51 2006, are amended to read as follows:

52 (1) A taxpayer shall be allowed a credit against the tax imposed by
53 this article. Such credit, to be computed as hereinafter provided, shall
54 be allowed for [bioheat] BIOHEATING FUEL, used for space heating or hot
55 water production for residential purposes within this state and
56 purchased on or after July first, two thousand six and before July

1 first, two thousand seven and on or after January first, two thousand
2 eight and before January first, two thousand twenty. Such credit shall
3 be \$0.01 per percent of biodiesel per gallon of [bioheat] BIOHEATING
4 FUEL, not to exceed twenty cents per gallon, purchased by such taxpayer.
5 Provided, however, that on or after January first, two thousand seven-
6 teen, this credit shall not apply to [bioheat] BIOHEATING FUEL that is
7 less than six percent biodiesel per gallon of [bioheat] BIOHEATING FUEL.

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

12 S 4. The department of environmental conservation, in consultation
13 with the New York state energy research and development authority, shall
14 examine the supply and cost of bioheating fuel, and shall submit a
15 report on the findings of such examination to the governor and the
16 legislature on or before December 1, 2017.

17 S 5. This act shall take effect immediately.