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

8372

2015-2016 Regular Sessions

I N A S S E M B L Y

August 24, 2015

Introduced by M. of A. CAHILL, LIFTON -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a tax on carbon-based fuels to mitigate greenhouse gas emissions causing anthropogenic climate change

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

Section 1. The tax law is amended by adding a new article 12-B to read as follows:

ARTICLE 12-B
TAX ON CARBON-BASED FUELS

SECTION 289-G. DEFINITIONS.
289-H. ADMINISTRATION OF EMISSIONS CHARGES.
289-I. CARBON DIOXIDE EMISSIONS TAX.
289-J. CARBON DIOXIDE EMISSIONS FUND.
289-K. REGULATIONS.

S 289-G. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "CARBON-BASED FUEL" MEANS COAL, NATURAL GAS, RENEWABLE BIOMASS, PETROLEUM PRODUCTS, AND ANY OTHER PRODUCT THAT CONTAINS CARBON AND EMITS CARBON DIOXIDE, METHANE, NITROUS OXIDE, OR OTHER GREENHOUSE GASES WHEN COMBUSTED, THAT ARE USED FOR FUEL, HEATING, COOLING, OR INDUSTRIAL PROCESSES, WHICH PROCESSES SHALL INCLUDE ELECTRICITY GENERATION.

2. "CARBON-GENERATED ELECTRICITY" MEANS ELECTRIC ENERGY PRODUCED USING A CARBON-BASED FUEL THAT IS GENERATED OR TRANSMITTED BY AN ELECTRIC POWER FACILITY.

3. "CARBON DIOXIDE EQUIVALENT" MEANS A UNIT OF MEASURE DENOTING THE AMOUNT OF EMISSIONS FROM A GREENHOUSE GAS, EXPRESSED AS THE AMOUNT OF CARBON DIOXIDE BY WEIGHT THAT PRODUCES THE SAME GLOBAL WARMING IMPACT.

4. "CARBON DIOXIDE EMISSIONS TAX" MEANS A TAX IMPOSED ON EACH TON OF CARBON DIOXIDE EQUIVALENCY.

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

LBD11871-02-5

5. "FUEL DISTRIBUTOR" MEANS ANY PERSON, FIRM, ASSOCIATION OR CORPORATION, THAT IMPORTS OR CAUSES TO BE IMPORTED INTO THE STATE, FOR USE, DISTRIBUTION, STORAGE OR SALE WITHIN THE STATE, ANY CARBON-BASED FUEL AS DEFINED IN SUBDIVISION ONE OF THIS SECTION; AND ALSO ANY PERSON, FIRM, ASSOCIATION OR CORPORATION THAT PRODUCES, REFINES, MANUFACTURES OR COMPOUNDS CARBON-BASED FUEL WITHIN THE STATE.

6. "FUND" MEANS THE CARBON DIOXIDE EMISSIONS FUND ESTABLISHED BY THIS ARTICLE.

7. "MOTOR VEHICLE FUEL" MEANS FUEL FOR THE OPERATION OF A MOTOR VEHICLE.

8. "UTILITY" MEANS ANY SUCH GAS CORPORATION, ELECTRIC CORPORATION, GAS AND ELECTRIC CORPORATION, STEAM CORPORATION, MUNICIPALITY, OR ANY ENTITY THAT, IN ANY MANNER, SELLS OR FACILITATES THE SALE, FURNISHING OR PROVISION OF GAS OR ELECTRONIC COMMODITY TO RESIDENTIAL CUSTOMERS; PROVIDED, HOWEVER, THAT THE TERM SHALL NOT INCLUDE ANY MUNICIPALITY THAT IS EXEMPT FROM REGULATION BY THE PUBLIC SERVICE COMMISSION PURSUANT TO PARAGRAPH G OF SUBDIVISION FIVE OF SECTION ONE THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW.

S 289-H. ADMINISTRATION OF EMISSIONS CHARGES. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL ADMINISTER THE SCHEDULES OF CARBON DIOXIDE EMISSIONS CHARGES AND THE CARBON DIOXIDE EMISSIONS FUND, BOTH ESTABLISHED PURSUANT TO THIS ARTICLE. SUCH TAX SHALL BE IMPOSED ON EACH FUEL DISTRIBUTOR AND UTILITY AT A RATE AND SCHEDULE TO BE DETERMINED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION IN ACCORDANCE WITH SECTION TWO HUNDRED EIGHTY-NINE-I OF THIS ARTICLE FOR A CARBON-BASED FUEL THAT IS EITHER:

1. SOLD BY A FUEL DISTRIBUTOR TO CONSUMERS IN THIS STATE IN THE PREVIOUS CALENDAR YEAR; OR

2. USED TO PRODUCE CARBON-GENERATED ELECTRICITY THAT IS SUPPLIED BY A UTILITY TO CONSUMERS IN THIS STATE IN THE PREVIOUS CALENDAR YEAR.

S 289-I. CARBON DIOXIDE EMISSIONS TAX. 1. THE DEPARTMENT AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL ESTABLISH A CARBON DIOXIDE EMISSIONS TAX ON THE DISTRIBUTION OR SALE OF CARBON-BASED FUELS WHICH SHALL BE NO LESS THAN THIRTY-FIVE DOLLARS PER TON OF CARBON DIOXIDE EQUIVALENCY AND SHALL INCREASE BY FIFTEEN DOLLARS PER TON OF CARBON DIOXIDE EQUIVALENCY ANNUALLY TO A MAXIMUM OF ONE HUNDRED EIGHTY-FIVE DOLLARS PER TON OF CARBON DIOXIDE EQUIVALENCY.

2. IN THE FOURTH YEAR OF IMPLEMENTATION, AND BIANNUALLY THEREAFTER, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL PUBLISH A REPORT FOR THE LEGISLATURE AND SHALL POST THE REPORT ON AN INTERNET WEBSITE ACCESSIBLE TO THE PUBLIC. SUCH REPORT SHALL CONSIDER WHETHER ANY INCREASES OR DECREASES IN THE CARBON DIOXIDE EMISSIONS TAX AS AUTHORIZED BY THIS SECTION ARE RECOMMENDED TO ACCOUNT FOR INFLATION, AND TO ENSURE PROGRESS TOWARDS REACHING EMISSIONS LEVELS TO MITIGATE CLIMATE CHANGE IN FURTHERANCE OF ESTABLISHED STATE POLICY.

3. THE DEPARTMENT SHALL DETERMINE TOTAL TAXABLE EMISSIONS ANNUALLY FOR EACH DISTRIBUTOR OR UTILITY USING THE CARBON DIOXIDE EQUIVALENT FOR EACH CARBON-BASED FUEL BASED ON INFORMATION THAT SHALL BE PROVIDED IN AN ANNUAL REPORT TO THE DEPARTMENT BY THE DISTRIBUTOR OR UTILITY ABOUT THE AMOUNT OF CARBON-BASED FUEL OR CARBON-GENERATED ELECTRICITY SOLD TO CONSUMERS WITHIN THE STATE DURING THE PRECEDING CALENDAR YEAR. SUCH ANNUAL REPORT SHALL ALSO INCLUDE ANY INFORMATION REQUIRED BY THE DEPARTMENT BY RULE OR REGULATION.

4. THE DEPARTMENT AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL BE AUTHORIZED TO DEVELOP ANY RULE OR REGULATION NECESSARY TO

COLLECT AND ADMINISTER THE CARBON DIOXIDE EMISSIONS TAX AUTHORIZED UNDER THIS ARTICLE.

5. NOTWITHSTANDING ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, THE TAX AUTHORIZED UNDER THIS SECTION SHALL NOT BE IMPOSED ON ANY CARBON-BASED FUEL OR SOURCE OF CARBON-BASED ELECTRICITY IF SUCH IMPOSITION IS SUPERSEDED BY FEDERAL LAW OR REGULATION.

S 289-J. CARBON DIOXIDE EMISSIONS FUND. 1. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL ESTABLISH THE CARBON DIOXIDE EMISSIONS FUND, AND THE DEPARTMENT'S OFFICE OF CLIMATE CHANGE SHALL SERVE AS THE FUND'S ADMINISTRATOR. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL DEPOSIT ALL PROCEEDS COLLECTED IN ACCORDANCE WITH SECTION TWO HUNDRED EIGHTY-NINE-I OF THIS ARTICLE INTO THE FUND. NO SUCH PROCEEDS SHALL FUND GOVERNMENT OPERATIONS OF THE STATE, OTHER THAN TO PAY FOR REASONABLE ADMINISTRATIVE COSTS AS PROVIDED UNDER SUBDIVISION TWO OF THIS SECTION.

2. THE OFFICE OF CLIMATE CHANGE SHALL RETURN SIXTY PERCENT OF ALL CARBON DIOXIDE EMISSIONS CHARGE PROCEEDS TO VERY LOW TO MODERATE INCOME RESIDENTS OF THE STATE IN THE FORM OF TAX CREDITS IN ORDER TO OFFSET THE REGRESSIVE NATURE OF SUCH FEES. THE AMOUNT OF SUCH CREDIT SHALL BE BASED ON ESTIMATES AND AVERAGES OF EXPENSE AND CONSUMPTION TRENDS FOR VERY LOW TO MODERATE INCOME RESIDENTS DETERMINED BY THE OFFICE OF CLIMATE CHANGE IN CONJUNCTION WITH THE DEPARTMENT IN ACCORDANCE WITH SECTION TWO HUNDRED EIGHTY-NINE-K OF THIS ARTICLE. SUCH CREDIT SHALL BE PROGRESSIVELY ISSUED TO VERY LOW TO MODERATE INCOME RESIDENTS. SUCH INCOME CATEGORIES SHALL MEAN THOSE WITH INCOME BELOW FIFTY PERCENT FOR VERY LOW INCOME RESIDENTS, INCOME BETWEEN FIFTY AND EIGHTY PERCENT FOR LOW INCOME RESIDENTS, AND INCOME BETWEEN EIGHTY-ONE AND ONE HUNDRED FIFTEEN PERCENT FOR MODERATE INCOME RESIDENTS, OF THE AREA MEDIAN INCOME AS DETERMINED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

3. THE OFFICE OF CLIMATE CHANGE SHALL DISTRIBUTE EVENLY THE REMAINING FORTY PERCENT OF PROCEEDS OF SUCH FUND IN ORDER TO SUPPORT THE TRANSITION TO ONE HUNDRED PERCENT CLEAN ENERGY IN THE STATE, TO SUPPORT MASS TRANSIT TO REDUCE CARBON EMISSIONS, AND TO IMPROVE CLIMATE CHANGE ADAPTATION. SUCH FUNDS SHALL INCLUDE BUT NOT BE LIMITED TO PAYMENTS AND SUBSIDIES FOR RENEWABLE ENERGY, ENERGY CONSERVATION AND EFFICIENCY MEASURES, IMPROVEMENTS IN INFRASTRUCTURE, IMPROVEMENTS IN MASS TRANSIT CAPACITY, AGRICULTURAL ADAPTATION MEASURES, PROTECTION OF LOW-LYING AREAS INCLUDING COASTLINES, AND EMERGENCY RESPONSES TO EXTREME WEATHER EVENTS.

S 289-K. REGULATIONS. 1. THE DEPARTMENT AND DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL PROMULGATE SUCH RULES AND REGULATIONS AS SHALL BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

2. THE DEPARTMENT AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL UNDERTAKE ALL REASONABLE EFFORTS TO COLLECT CHARGES AUTHORIZED PURSUANT TO THIS ARTICLE AT THE FIRST POINT OF DISTRIBUTION OR SALE WITHIN THE STATE.

S 2. This act shall take effect ninety days after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date.