

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

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

3 ARTICLE 12-B

4 TAX ON CARBON-BASED FUELS

5 SECTION 289-G. DEFINITIONS.

6 289-H. ADMINISTRATION OF EMISSIONS CHARGES.

7 289-I. CARBON DIOXIDE EMISSIONS TAX.

8 289-J. CARBON DIOXIDE EMISSIONS FUND.

9 289-K. REGULATIONS.

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

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

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

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

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

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

LBD11871-02-5

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

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

9 7. "MOTOR VEHICLE FUEL" MEANS FUEL FOR THE OPERATION OF A MOTOR VEHI-
10 CLE.

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

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

27 1. SOLD BY A FUEL DISTRIBUTOR TO CONSUMERS IN THIS STATE IN THE PREVI-
28 OUS CALENDAR YEAR; OR

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

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

38 2. IN THE FOURTH YEAR OF IMPLEMENTATION, AND BIANNUALLY THEREAFTER,
39 THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL PUBLISH A REPORT FOR
40 THE LEGISLATURE AND SHALL POST THE REPORT ON AN INTERNET WEBSITE ACCES-
41 SIBLE TO THE PUBLIC. SUCH REPORT SHALL CONSIDER WHETHER ANY INCREASES OR
42 DECREASES IN THE CARBON DIOXIDE EMISSIONS TAX AS AUTHORIZED BY THIS
43 SECTION ARE RECOMMENDED TO ACCOUNT FOR INFLATION, AND TO ENSURE PROGRESS
44 TOWARDS REACHING EMISSIONS LEVELS TO MITIGATE CLIMATE CHANGE IN FURTHER-
45 ANCE OF ESTABLISHED STATE POLICY.

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

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

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

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

7 S 289-J. CARBON DIOXIDE EMISSIONS FUND. 1. THE DEPARTMENT OF ENVIRON-
8 MENTAL CONSERVATION SHALL ESTABLISH THE CARBON DIOXIDE EMISSIONS FUND,
9 AND THE DEPARTMENT'S OFFICE OF CLIMATE CHANGE SHALL SERVE AS THE FUND'S
10 ADMINISTRATOR. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL DEPOS-
11 IT ALL PROCEEDS COLLECTED IN ACCORDANCE WITH SECTION TWO HUNDRED EIGHT-
12 Y-NINE-I OF THIS ARTICLE INTO THE FUND. NO SUCH PROCEEDS SHALL FUND
13 GOVERNMENT OPERATIONS OF THE STATE, OTHER THAN TO PAY FOR REASONABLE
14 ADMINISTRATIVE COSTS AS PROVIDED UNDER SUBDIVISION TWO OF THIS SECTION.

15 2. THE OFFICE OF CLIMATE CHANGE SHALL RETURN SIXTY PERCENT OF ALL
16 CARBON DIOXIDE EMISSIONS CHARGE PROCEEDS TO VERY LOW TO MODERATE INCOME
17 RESIDENTS OF THE STATE IN THE FORM OF TAX CREDITS IN ORDER TO OFFSET THE
18 REGRESSIVE NATURE OF SUCH FEES. THE AMOUNT OF SUCH CREDIT SHALL BE BASED
19 ON ESTIMATES AND AVERAGES OF EXPENSE AND CONSUMPTION TRENDS FOR VERY LOW
20 TO MODERATE INCOME RESIDENTS DETERMINED BY THE OFFICE OF CLIMATE CHANGE
21 IN CONJUNCTION WITH THE DEPARTMENT IN ACCORDANCE WITH SECTION TWO
22 HUNDRED EIGHTY-NINE-K OF THIS ARTICLE. SUCH CREDIT SHALL BE PROGRESSIVE-
23 LY ISSUED TO VERY LOW TO MODERATE INCOME RESIDENTS. SUCH INCOME Catego-
24 RIES SHALL MEAN THOSE WITH INCOME BELOW FIFTY PERCENT FOR VERY LOW
25 INCOME RESIDENTS, INCOME BETWEEN FIFTY AND EIGHTY PERCENT FOR LOW INCOME
26 RESIDENTS, AND INCOME BETWEEN EIGHTY-ONE AND ONE HUNDRED FIFTEEN PERCENT
27 FOR MODERATE INCOME RESIDENTS, OF THE AREA MEDIAN INCOME AS DETERMINED
28 BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

29 3. THE OFFICE OF CLIMATE CHANGE SHALL DISTRIBUTE EVENLY THE REMAINING
30 FORTY PERCENT OF PROCEEDS OF SUCH FUND IN ORDER TO SUPPORT THE TRANSI-
31 TION TO ONE HUNDRED PERCENT CLEAN ENERGY IN THE STATE, TO SUPPORT MASS
32 TRANSIT TO REDUCE CARBON EMISSIONS, AND TO IMPROVE CLIMATE CHANGE ADAP-
33 TATION. SUCH FUNDS SHALL INCLUDE BUT NOT BE LIMITED TO PAYMENTS AND
34 SUBSIDIES FOR RENEWABLE ENERGY, ENERGY CONSERVATION AND EFFICIENCY MEAS-
35 URES, IMPROVEMENTS IN INFRASTRUCTURE, IMPROVEMENTS IN MASS TRANSIT
36 CAPACITY, AGRICULTURAL ADAPTATION MEASURES, PROTECTION OF LOW-LYING
37 AREAS INCLUDING COASTLINES, AND EMERGENCY RESPONSES TO EXTREME WEATHER
38 EVENTS.

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

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

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