

# STATE OF NEW YORK

6954--A

R. R. 678

2017-2018 Regular Sessions

## IN ASSEMBLY

March 27, 2017

Introduced by M. of A. ENGLEBRIGHT, GALEF, RAMOS, LAVINE, ABINANTI, D'URSO, HARRIS, COLTON, RAIA, JEAN-PIERRE, SEPULVEDA, QUART, CARROLL, KAVANAGH -- Multi-Sponsored by -- M. of A. HOOPER, THIELE -- read once and referred to the Committee on Environmental Conservation -- reported and referred to the Committee on Ways and Means -- reported and referred to the Committee on Rules -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special 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 § 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 desig-  
8 nation D6751 composed exclusively of mono-alkyl esters of long chain  
9 fatty acids derived from feedstock.

10 (b) "Renewable Hydrocarbon Diesel" shall mean a domestically-produced  
11 fuel derived from vegetable oils, animal fats, and other renewable  
12 feedstocks that meet the most recent specifications of ASTM D975. Renew-  
13 able hydrocarbon shall not include any fuel from co-processed biomass  
14 with a feedstock that is not biomass.

15 (c) "Bioheating fuel" shall mean a fuel comprised of biodiesel blended  
16 with petroleum heating oil that meets the specifications of the American  
17 Society for Testing and Materials designation D396, a fuel comprised of  
18 domestically-produced renewable hydrocarbon diesel with petroleum heat-

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

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1 ing oil that meets the specifications of ASTM D975, or other specifica-  
2 tions as determined by the commissioner.

3 (d) "Heating oil" shall mean petroleum oil refined for the purpose of  
4 use as fuel for combustion in a space and/or water heating system that  
5 meets the specifications of the American Society for Testing and Materi-  
6 als designation D396 or other specifications as determined by the  
7 commissioner.

8 (e) "Feedstock" shall mean soybean oil, oil from annual cover crops,  
9 algal oil, biogenic waste oils, fats or greases, or non-food grade corn  
10 oil, provided that the commissioner may, by rules and regulations, modi-  
11 fy the definition of feedstock based on the vegetable oils, animal fats  
12 or cellulosic biomass listed in table 1 of 40 C.F.R. § 80.1426.

13 (2) On and after July first, two thousand eighteen, all heating oil  
14 sold for use in any building within the counties of Nassau, Suffolk and  
15 Westchester shall be bioheating fuel that contains at least five percent  
16 biodiesel.

17 (3) The governor may, by issuing an executive order, temporarily  
18 suspend the applicability of this section at any time based on the  
19 governor's determination, after consulting with the New York state ener-  
20 gy research and development authority and the department, that meeting  
21 the requirement of subdivision two of this section is not feasible due  
22 to lack of adequate supply of biodiesel or that meeting the requirement  
23 would result in undue financial hardship to consumers.

24 (4) The requirements of this section shall not: (a) prohibit the sale  
25 and use of bioheating fuel with the same or any greater percentage of  
26 biodiesel blended with heating oil, or the sale and use of one hundred  
27 percent biodiesel, for space and/or water heating purposes in the state;  
28 and (b) preempt any laws of the city of New York with respect to  
29 mandated percentage levels of biodiesel blends with heating oil provided  
30 that such laws require the same or greater percentage of biodiesel  
31 blended with heating oil as required by this section.

32 § 2. Paragraph (a) and subparagraph (ii) of paragraph (b) of subdivi-  
33 sion 25 of section 210-B of the tax law, paragraph (a) as amended by  
34 section 1 of part N of chapter 60 of the laws of 2016 and subparagraph  
35 (ii) of paragraph (b) as added by section 17 of part A of chapter 59 of  
36 the laws of 2014, are amended to read as follows:

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

48 (ii) [~~"Bioheat"~~] "Bioheating fuel" shall mean a fuel comprised of  
49 biodiesel or renewable hydrocarbon diesel blended with conventional home  
50 heating oil, which meets the specifications of the American Society of  
51 Testing and Materials designation D 396 or D 975.

52 § 3. Paragraph 1 and subparagraph (b) of paragraph 2 of subsection  
53 (mm) of section 606 of the tax law, paragraph 1 as amended by section 2  
54 of part N of chapter 60 of the laws of 2016 and subparagraph (b) of  
55 paragraph 2 as added by section 2 of part D of chapter 35 of the laws of  
56 2006, are amended to read as follows:

1 (1) A taxpayer shall be allowed a credit against the tax imposed by  
2 this article. Such credit, to be computed as hereinafter provided, shall  
3 be allowed for [~~bioheat~~] bioheating fuel, used for space heating or hot  
4 water production for residential purposes within this state and  
5 purchased on or after July first, two thousand six and before July  
6 first, two thousand seven and on or after January first, two thousand  
7 eight and before January first, two thousand twenty. Such credit shall  
8 be \$0.01 per percent of biodiesel per gallon of [~~bioheat~~] bioheating  
9 fuel, not to exceed twenty cents per gallon, purchased by such taxpayer.  
10 Provided, however, that on or after January first, two thousand seven-  
11 teen, this credit shall not apply to [~~bioheat~~] bioheating fuel that is  
12 less than six percent biodiesel per gallon of [~~bioheat~~] bioheating fuel.  
13 (b) [~~"Bioheat"~~] "Bioheating fuel" shall mean a fuel comprised of biod-  
14 iesel or renewable hydrocarbon diesel blended with conventional home  
15 heating oil, which meets the specifications of the American Society of  
16 Testing and Materials designation D 396 or D 975.  
17 § 4. This act shall take effect immediately.