

STATE OF NEW YORK

5422--A

2017-2018 Regular Sessions

IN SENATE

March 27, 2017

Introduced by Sens. BOYLE, AVELLA, CROCI, HANNON, LATIMER, PHILLIPS, SANDERS, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee and committed to the Committee on Finance -- 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 § 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 design-
8 ation 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-
19 ing oil that meets the specifications of ASTM D975, or other specifica-
20 tions as determined by the commissioner.

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

LBD10699-06-7

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

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

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

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

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

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

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

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

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

55 (1) A taxpayer shall be allowed a credit against the tax imposed by
56 this article. Such credit, to be computed as hereinafter provided, shall

1 be allowed for [~~bioheat~~] bioheating fuel, used for space heating or hot
2 water production for residential purposes within this state and
3 purchased on or after July first, two thousand six and before July
4 first, two thousand seven and on or after January first, two thousand
5 eight and before January first, two thousand twenty. Such credit shall
6 be \$0.01 per percent of biodiesel per gallon of [~~bioheat~~] bioheating
7 fuel, not to exceed twenty cents per gallon, purchased by such taxpayer.
8 Provided, however, that on or after January first, two thousand seven-
9 teen, this credit shall not apply to [~~bioheat~~] bioheating fuel that is
10 less than six percent biodiesel per gallon of [~~bioheat~~] bioheating fuel.

11 (b) [~~"Bioheat"~~] "Bioheating fuel" shall mean a fuel comprised of biod-
12 iesel or renewable hydrocarbon diesel blended with conventional home
13 heating oil, which meets the specifications of the American Society of
14 Testing and Materials designation D 396 or D 975.

15 § 4. This act shall take effect immediately.