

# STATE OF NEW YORK

3321--A

Cal. No. 338

2021-2022 Regular Sessions

## IN SENATE

January 28, 2021

Introduced by Sens. KAMINSKY, ADDABBO, AKSHAR, GAUGHRAN, HINCHEY, JACKSON, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the environmental conservation law, in relation to bioheating fuel requirements

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 19-0327 of the environmental conservation law, as added by chapter 315 of the laws of 2017, is amended to read as follows: § 19-0327. Bioheating fuel requirements.

(1) Definitions. For the purpose of this section, the following terms shall have the following meanings:

(a) "Biodiesel" shall mean a fuel, designated B100, that meets the ~~[specifications]~~ requirements of the ~~[American Society for Testing and Materials designation]~~ ASTM international specification D6751 ~~[composed exclusively of mono-alkyl esters of long chain fatty acids derived from feedstock]~~.

(b) "Renewable Hydrocarbon Diesel" shall mean a domestically-produced fuel derived from vegetable oils, animal fats, and other renewable feedstocks that meet the ~~[most recent specifications]~~ requirements of ASTM international specification D975. Renewable hydrocarbon shall not include any fuel from co-processed biomass with a feedstock that is not biomass.

(c) "Bioheating fuel" shall mean a fuel comprised of biodiesel blended with petroleum heating oil that meets the ~~[specifications]~~ requirements of the ~~[American Society for Testing and Materials designation]~~ ASTM

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

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1 international specification D396, a fuel comprised of domestically-pro-  
2 duced renewable hydrocarbon diesel with petroleum heating oil that meets  
3 the specifications of ASTM international specification D975, or other  
4 specifications as determined by the commissioner.

5 (d) "Heating oil" shall mean petroleum oil refined for the purpose of  
6 use as fuel for combustion in a space and/or water heating system that  
7 meets the [~~specifications~~] requirements of the [~~American Society for~~  
8 ~~Testing and Materials designation~~] ATSM international specification D396  
9 or other specifications as determined by the commissioner.

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

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

19 (3) On or after July first, two thousand twenty-two, all heating oil  
20 sold for use in any building within the state shall be bioheating fuel  
21 that contains at least five percent biodiesel.

22 (4) On or after July first, two thousand twenty-five, all heating oil  
23 sold for use in any building within the state shall be bioheating fuel  
24 that contains at least ten percent biodiesel.

25 (5) On or after July first, two thousand thirty, all heating oil sold  
26 for use in any building within the state shall be bioheating fuel that  
27 contains at least twenty percent biodiesel.

28 (6) The minimum content requirements of this section shall not apply  
29 to kerosene.

30 [~~(3)~~] (7) The governor may, by issuing an executive order, temporarily  
31 suspend the applicability of this section at any time based on the  
32 governor's determination, after consulting with the New York state ener-  
33 gy research and development authority and the department, that meeting  
34 the requirement of subdivision two of this section is not feasible due  
35 to lack of adequate supply of biodiesel or that meeting the requirement  
36 would result in [~~undue~~] financial hardship to consumers.

37 [~~(4)~~] (8) The requirements of this section shall not: (a) prohibit the  
38 sale and use of bioheating fuel with the same or any greater percentage  
39 of biodiesel blended with heating oil, or the sale and use of one  
40 hundred percent biodiesel, for space and/or water heating purposes in  
41 the state; and (b) preempt any laws of the city of New York with respect  
42 to mandated percentage levels of biodiesel blends with heating oil  
43 provided that such laws require the same or greater percentage of biod-  
44 iesel blended with heating oil as required by this section.

45 (9) No bioheating fuel shall be sold to a customer that would void the  
46 manufacturer's warranty for that burner or boiler type unless the  
47 bioheat provider warranties in writing to the customer that the use of  
48 such bioheating fuel will be covered to the extent and time limits of  
49 the warranty then covering such burner or boiler. The commissioner, in  
50 consultation with the department of financial services, shall issue  
51 regulations that strictly enforce such provisions.

52 § 2. This act shall take effect immediately.