

STATE OF NEW YORK

9595

IN SENATE

November 16, 2022

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the environmental conservation law, in relation to climate corporate accountability

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

1 Section 1. This act shall be known and may be cited as the "climate
2 corporate accountability act".

3 § 2. The environmental conservation law is amended by adding a new
4 section 75-0118 to read as follows:

5 § 75-0118. Climate corporate accountability act.

6 1. Definitions. As used in this section, the following terms shall
7 have the following meanings:

8 a. "Emissions registry" means an entity within the department or a
9 nonprofit emissions registry organization contracted by the department
10 pursuant to paragraph b of this subdivision that:

11 i. Currently operates a voluntary greenhouse gas emissions registry
12 for organizations operating in the United States; or

13 ii. Has experience with voluntary greenhouse gas emissions disclosure
14 by entities operating in New York.

15 b. "Reporting entity" means a business entity with total revenues in
16 excess of one billion dollars in the preceding calendar year, including
17 revenues received by all the business entity's subsidiaries that does
18 business in this state.

19 c. "Scope one emissions" means all direct greenhouse gas emissions
20 that stem from sources that a reporting entity owns or directly
21 controls, regardless of location, including, but not limited to, fuel
22 combustion activities.

23 d. "Scope two emissions" means indirect greenhouse gas emissions from
24 electricity purchased and used by a reporting entity, regardless of
25 location.

26 e. "Scope three emissions" means indirect greenhouse gas emissions,
27 other than scope two emissions, from activities of a reporting entity
28 that stem from sources that the reporting entity does not own or direct-

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

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1 ly control and may include, but are not limited to, emissions associated
2 with the reporting entity's supply chain, business travel, employee
3 commutes, procurement, waste, and water usage, regardless of location.

4 2. a. The department shall adopt regulations to require a reporting
5 entity to annually disclose and verify to the emissions registry all of
6 the reporting entity's scope one emissions, scope two emissions, and
7 scope three emissions. The regulations adopted pursuant to this subdivi-
8 sion shall require, at a minimum, that:

9 i. (1) Except as provided in clause two of this subparagraph, on or
10 before July first of each year, a reporting entity shall publicly
11 disclose to the emissions registry all of the reporting entity's scope
12 one emissions and scope two emissions for the prior calendar year, and
13 its scope three emissions for that same calendar year no later than
14 December thirty-first, using the Greenhouse Gas Protocol Corporate
15 Accounting and Reporting Standard and the Greenhouse Gas Protocol Corpo-
16 rate Value Chain (Scope 3) Accounting and Reporting Standard developed
17 by the World Resources Institute and the World Business Council for
18 Sustainable Development, including guidance for scope three emissions
19 calculations that detail acceptable use of both primary and secondary
20 data sources, including the use of industry average data, proxy data,
21 and other generic data in its scope three emissions calculations.

22 (2) The department shall review, and update as necessary, the public
23 disclosure deadlines established pursuant to clause one of this subpara-
24 graph to evaluate trends in scope three emissions reporting and consider
25 changes to the disclosure deadlines to ensure that scope three emissions
26 data is disclosed to the emissions registry as close in time as practi-
27 cable to the deadline for reporting entities to disclose scope one emis-
28 sions and scope two emissions data.

29 The reporting timelines shall take into account the timelines by which
30 reporting entities typically receive scope one, scope two, and scope
31 three emissions data, as well as the capacity for independent verifica-
32 tion to be performed by a third-party auditor, as approved by the
33 department.

34 ii. A reporting entity's public disclosure shall include the name of
35 the reporting entity and any fictitious names, trade names, assumed
36 names, subsidiaries and logos used by the reporting entity.

37 iii. A reporting entity's public disclosure shall be structured in
38 ways that maximize and streamline reporting and ease of use in meeting
39 the requirements of national and international disclosure programs and
40 standards, including, but not limited to, adopted rules from the United
41 States Securities and Exchange Commission and international standards
42 such as those established by CDP Global.

43 iv. (1) A reporting entity's public disclosure shall be independently
44 verified by the emissions registry or a third-party auditor approved by
45 the department with expertise in greenhouse gas emissions accounting.
46 The reporting entity shall ensure that a copy of the complete, audited
47 greenhouse gas emissions inventory, including the name of the approved
48 third-party auditor, is provided to the emissions registry as part of or
49 in connection with the reporting entity's public disclosure.

50 (2) The department shall establish auditor qualifications and a proc-
51 ess for approval of auditors that ensures sufficient auditor capacity,
52 as well as timely reporting implementation as required under clause one
53 of subparagraph i of this paragraph.

54 b. The department shall create or contract with, an emissions registry
55 to develop a reporting and registry program to receive and make publicly
56 available disclosures required by this section. Emissions registries

1 shall not be authorized to provide services to a company where a
2 conflict of interest exists. A conflict of interest shall include:

3 i. The emissions registry and reporting entity sharing any management
4 staff or board of directors membership, or any of the senior management
5 staff of the reporting entity having been employed by the emissions
6 registry or reporting entity within the previous five years.

7 ii. Any employee of the emissions registry, or any employee of a
8 related entity, or a subcontractor who is a member of the emissions
9 registry having provided the reporting entity with services related to
10 the areas of emissions registry, or any services designated by the
11 department, within the previous five years.

12 iii. Any staff member of the emissions registry providing any type of
13 non-monetary incentive to a reporting entity to secure a services
14 contract.

15 c. The department may adopt or update any other regulations that it
16 deems necessary and appropriate to implement this subdivision.

17 3. a. The department shall prepare a report on the public disclosures
18 made by reporting entities to the emissions registry pursuant to subdi-
19 vision two of this section and the regulations adopted by the department
20 pursuant to such subdivision. In preparing the report, consideration
21 shall be given to, at a minimum, greenhouse gas emissions from reporting
22 entities in the context of state greenhouse gas emissions reduction and
23 climate goals. The department shall not require reporting entities to
24 report any information beyond what is required pursuant to this section
25 or the regulations adopted by the department pursuant to subdivision two
26 of this section. The department shall issue the report of its findings
27 to the governor, the speaker of the assembly and the temporary president
28 of the senate and shall publish such report on its website.

29 b. The emissions registry shall make the reporting entities' disclo-
30 tures available on the department's website within thirty days of
31 receipt of such disclosures.

32 4. The attorney general may bring a civil action against a reporting
33 entity seeking civil penalties of one hundred thousand dollars per day
34 for willful failure to comply with the requirements of this section or
35 regulations set forth by the department.

36 § 3. This act shall take effect two years after it shall have become a
37 law. Effective immediately, the addition, amendment and/or repeal of any
38 rule or regulation necessary for the implementation of this act on its
39 effective date are authorized to be made and completed on or before such
40 effective date.