

# STATE OF NEW YORK

7290

2021-2022 Regular Sessions

## IN ASSEMBLY

May 4, 2021

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the  
Committee on Environmental Conservation

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 Assem-  
bly, do enact as follows:

1 Section 1. Section 19-0327 of the environmental conservation law, as  
2 added by chapter 315 of the laws of 2017, is amended 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~~] requirements of the [~~American Society for Testing and~~  
8 ~~Materials designation~~] ASTM international specification D6751 [~~composed~~  
9 ~~exclusively of mono-alkyl esters of long chain fatty acids derived from~~  
10 ~~feedstock~~].

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

17 (c) "Bioheating fuel" shall mean a fuel comprised of biodiesel blended  
18 with petroleum heating oil that meets the [~~specifications~~] requirements  
19 of the [~~American Society for Testing and Materials designation~~] ASTM  
20 international specification D396, a fuel comprised of domestically-pro-  
21 duced renewable hydrocarbon diesel with petroleum heating oil that meets  
22 the specifications of ASTM international specification D975, or other  
23 specifications as determined by the commissioner.

24 (d) "Heating oil" shall mean petroleum oil refined for the purpose of  
25 use as fuel for combustion in a space and/or water heating system that

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

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1 meets the [~~specifications~~] requirements of the [~~American Society for~~  
2 ~~Testing and Materials designation~~] ATSM international specification D396  
3 or other specifications as determined by the commissioner.

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

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

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

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

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

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

24 [~~(3)~~] (7) The governor may, by issuing an executive order, temporarily  
25 suspend the applicability of this section at any time based on the  
26 governor's determination, after consulting with the New York state ener-  
27 gy research and development authority and the department, that meeting  
28 the requirement of subdivision two of this section is not feasible due  
29 to lack of adequate supply of biodiesel or that meeting the requirement  
30 would result in [~~undue~~] financial hardship to consumers.

31 [~~(4)~~] (8) The requirements of this section shall not: (a) prohibit the  
32 sale and use of bioheating fuel with the same or any greater percentage  
33 of biodiesel blended with heating oil, or the sale and use of one  
34 hundred percent biodiesel, for space and/or water heating purposes in  
35 the state; and (b) preempt any laws of the city of New York with respect  
36 to mandated percentage levels of biodiesel blends with heating oil  
37 provided that such laws require the same or greater percentage of biod-  
38 iesel blended with heating oil as required by this section.

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

46 § 2. This act shall take effect immediately.