

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.