

# STATE OF NEW YORK

862--B

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. WOERNER, THIELE, SAYEGH, WILLIAMS, GRIFFIN, EPSTEIN, ABINANTI, MAGNARELLI, COLTON, STIRPE, WALLACE, CARROLL, GOTTFRIED, STECK, PERRY, STERN, REYES, FAHY, D. ROSENTHAL, PAULIN, JONES, LUPARDO, QUART, O'DONNELL, J. RIVERA, DICKENS, GLICK, SIMON, ZEBROWSKI, HEVESI, L. ROSENTHAL, WEPRIN, ROZIC, SANTABARBARA, WALKER, FRONTUS, COOK, CUSICK, OTIS, VANEL, DINOWITZ, HUNTER, BARRETT, GUNTHER, SEAWRIGHT, GALEF, NIOU, FERNANDEZ, JACOBSON, HYNDMAN, NOLAN, BENEDETTO, AUBRY, LAVINE, McMAHON, CYMBROWITZ, BURKE, JACKSON, McDONALD, BURDICK, BARNWELL, ANDERSON, LUNSFORD, BRAUNSTEIN, GALLAGHER, BURGOS, GONZALEZ-ROJAS, CLARK, SILLITTI, SOLAGES, KELLES, PEOPLES-STOKES, JOYNER, BRONSON, JEAN-PIERRE, RAJKUMAR, RAMOS, SIMPSON, RA, CRUZ, FALL, TAYLOR, BROWN, DURSO, MONTESANO, LAWLER, DILAN, KIM, SEPTIMO, FORREST, BICHOTTE HERMELYN, PHEFFER AMATO, MITAYNES, BUTTENSCHON, DeSTEFANO -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to establishing the "clean fuel standard of 2022"

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

- 1 Section 1. Legislative findings and declarations:
- 2 1. The transportation sector in New York is a leading source of crite-
- 3 ria pollutants and the leading source of greenhouse gas emissions that
- 4 endanger public health and welfare by causing and contributing to
- 5 increased air pollution and dangerous climate change. Meeting the
- 6 pollution reduction requirements of the Climate Leadership and Communi-

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

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1 ties Protection Act will require sharp decreases in transportation-re-  
2 lated emissions.

3 2. Shifting from today's petroleum-based transportation fuels to  
4 alternative fuels has the potential to significantly reduce transporta-  
5 tion emissions of air pollutants and greenhouse gases and is recommended  
6 by the Intergovernmental Panel on Climate Change as an important pathway  
7 for holding global warming to 1.5 degrees Celsius.

8 3. The Climate Leadership and Communities Protection Act directs the  
9 Department of Environmental Protection to promulgate regulations that  
10 will reduce greenhouse gas emissions, including from on-road vehicles.

11 4. New York signed a 15-state MOU to develop an action plan to reduce  
12 toxic diesel emissions from medium and heavy-duty vehicles by 2050.

13 5. A clean fuels standard regulation would promote innovation  
14 production and use of non-petroleum fuels that reduce vehicle and fuel-  
15 related air pollution that endangers public health and welfare and  
16 disproportionately impacts disadvantaged communities.

17 § 2. Short title. This act may be known and may be cited as the "clean  
18 fuel standard of 2022".

19 § 3. The environmental conservation law is amended by adding a new  
20 section 19-0331 to read as follows:

21 § 19-0331. Clean fuel standard.

22 (1) A clean fuel standard is hereby established. The clean fuel stand-  
23 ard is intended to reduce carbon intensity from the on-road transporta-  
24 tion sector by twenty percent by two thousand thirty, with further  
25 reductions to be implemented based upon advances in technology and to  
26 support achieving the goals of the climate action plan established  
27 pursuant to section 75-0103 of this chapter as determined by the commis-  
28 sioner. Aviation fuels shall be exempted from the clean fuel standard  
29 due to federal preemption, but sustainable aviation fuel shall be eligi-  
30 ble to generate credits on an opt-in basis.

31 (2) The clean fuel standard shall apply to all providers of transpor-  
32 tation fuels, including electricity, in New York, shall be measured on a  
33 full fuels lifecycle basis and may be met through market-based methods  
34 by which providers exceeding the performance required by the clean fuel  
35 standard shall receive credits that may be applied to future obligations  
36 or traded to providers not meeting the clean fuel standard. The gener-  
37 ation of credits must use a lifecycle emissions performance-based  
38 approach that is technology and feedstock neutral to achieve fuel decar-  
39 bonization. In addition to fuel decarbonization, credits generated  
40 through the use of clean fuel types will help promote innovation and  
41 investment in such clean fuels. For purposes of this section the term  
42 "providers" shall include, but shall not be limited to, all refiners,  
43 blenders, producers or importers of transportation fuels, or enablers of  
44 electricity used as transportation fuel, "carbon intensity" means the  
45 quantity of lifecycle greenhouse gas emissions per unit of fuel energy,  
46 and "full fuels lifecycle" means the aggregate of greenhouse gas emis-  
47 sions, including direct emissions and significant indirect emissions,  
48 such as significant emissions from land use changes as determined by the  
49 commissioner. The full fuels lifecycle shall be assessed annually and  
50 all stages of fuel and feedstock production and distribution, from  
51 feedstock generation or extraction through the distribution and delivery  
52 and use of the finished fuel by the ultimate consumer. In calculating  
53 full fuels lifecycle greenhouse gas emissions, the mass values for all  
54 non-carbon-dioxide greenhouse gases must be adjusted to account for  
55 their relative global warming potentials. This conversion shall use the

1 most appropriate conversion relative to global warming potentials as  
2 determined by the commissioner based on the best available science.

3 (3) Within twenty-four months following adoption of the clean fuel  
4 standard, the commissioner, in consultation with the New York state  
5 energy research and development authority, shall promulgate regulations  
6 establishing a clean fuel standard with performance objectives to imple-  
7 ment subdivision one of this section. Such regulations may be phased  
8 into effect giving priority to the heavy-duty transportation sector  
9 consisting of vehicles with the classification of six or higher as clas-  
10 sified by the Federal Highway Administration. The clean fuel standard  
11 shall take into consideration the low carbon fuel standard adopted in  
12 California and other states, may rely upon the carbon intensity of  
13 values established for transportation fuels in such states and shall  
14 include coordination with other Northeastern states to promote regional  
15 reductions in greenhouse gas emissions.

16 (4) The regulations adopted pursuant to this section shall include  
17 fees for the registration of providers to offset the costs associated  
18 with implementation of the clean fuel standard.

19 (5) Investment of funds. Electric utilities, state agencies, and  
20 authorities, in consultation with the climate justice working group and  
21 the climate action council established pursuant to section 75-0103 of  
22 this chapter, shall, to the extent practicable, invest or direct avail-  
23 able and relevant programmatic resources to provide forty percent of  
24 such electric utility's, state agency's, or authority's overall credit  
25 value on electrified transportation programs, projects, or investments  
26 to directly benefit disadvantaged communities, including, but not limit-  
27 ed to, electrification and battery swap programs for school or transit  
28 buses; electrification of drayage trucks; investment in public electric  
29 vehicle charging infrastructure and electric vehicle charging infras-  
30 tructure in multi-family residences; investment in electric mobility  
31 solutions such as electric vehicle sharing and ride hailing programs;  
32 multilingual marketing, education, and outreach designed to increase  
33 awareness and adoption of electric vehicles; and additional rebates and  
34 incentives for low-income individuals beyond existing local, federal,  
35 and state rebates and incentives.

36 (6) Within twenty-four months following the adoption of regulations  
37 implementing a clean fuel standard, the commissioner shall report to the  
38 legislature regarding the implementation of the program, the reductions  
39 in greenhouse gas emissions that have been achieved through the clean  
40 fuel standard and targets for future reductions in greenhouse gas emis-  
41 sions from the transportation sector.

42 (7) Nothing in this section shall preclude the department from enact-  
43 ing or maintaining other programs to reduce greenhouse gas emissions  
44 from the transportation sector.

45 § 4. This act shall take effect immediately.