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

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

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

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

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.