

STATE OF NEW YORK

4123--A

2023-2024 Regular Sessions

IN ASSEMBLY

February 9, 2023

Introduced by M. of A. GLICK, CUNNINGHAM, KELLES -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 75-0121 to read as follows:

5 § 75-0121. 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.

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

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1 d. "Scope two emissions" means indirect greenhouse gas emissions from
2 electricity purchased and used by a reporting entity, regardless of
3 location.

4 e. "Scope three emissions" means indirect greenhouse gas emissions,
5 other than scope two emissions, from activities of a reporting entity
6 that stem from sources that the reporting entity does not own or direct-
7 ly control and may include, but are not limited to, emissions associated
8 with the reporting entity's supply chain, business travel, employee
9 commutes, procurement, waste, and water usage, regardless of location.

10 2. a. The department shall adopt regulations to require a reporting
11 entity to annually disclose and verify to the emissions registry all of
12 the reporting entity's scope one emissions, scope two emissions, and
13 scope three emissions. The regulations adopted pursuant to this subdivi-
14 sion shall require, at a minimum, that:

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

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

35 The reporting timelines shall take into account the timelines by which
36 reporting entities typically receive scope one, scope two, and scope
37 three emissions data, as well as the capacity for independent verifica-
38 tion to be performed by a third-party auditor, as approved by the
39 department.

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

43 iii. A reporting entity's public disclosure shall be structured in
44 ways that minimize duplication of effort and maximize and streamline
45 reporting and ease of use in meeting the requirements of national and
46 international disclosure programs and standards, including, but not
47 limited to, adopted rules from the United States Securities and Exchange
48 Commission and international standards such as those established by CDP
49 Global.

50 iv. (1) A reporting entity's public disclosure shall be independently
51 verified by the emissions registry or a third-party auditor approved by
52 the department with expertise in greenhouse gas emissions accounting.
53 The reporting entity shall ensure that a copy of the complete, audited
54 greenhouse gas emissions inventory, including the name of the approved
55 third-party auditor, is provided to the emissions registry as part of or
56 in connection with the reporting entity's public disclosure.

1 (2) The department shall establish auditor qualifications and a process
2 for approval of auditors that ensures sufficient auditor capacity,
3 as well as timely reporting implementation as required under clause one
4 of subparagraph i of this paragraph.

5 b. The department shall create or contract with, an emissions registry
6 to develop a reporting and registry program to receive and make publicly
7 available disclosures required by this section. Emissions registries
8 shall not be authorized to provide services to a company where a
9 conflict of interest exists. A conflict of interest shall include:

10 i. The emissions registry and reporting entity sharing any management
11 staff or board of directors membership, or any of the senior management
12 staff of the reporting entity having been employed by the emissions
13 registry or reporting entity within the previous five years.

14 ii. Any employee of the emissions registry, or any employee of a
15 related entity, or a subcontractor who is a member of the emissions
16 registry having provided the reporting entity with services related to
17 the areas of emissions registry, or any services designated by the
18 department, within the previous five years.

19 iii. Any staff member of the emissions registry providing any type of
20 non-monetary incentive to a reporting entity to secure a services
21 contract.

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

24 3. a. The department shall prepare a report on the public disclosures
25 made by reporting entities to the emissions registry pursuant to subdivi-
26 vision two of this section and the regulations adopted by the department
27 pursuant to such subdivision. In preparing the report, consideration
28 shall be given to, at a minimum, greenhouse gas emissions from reporting
29 entities in the context of state greenhouse gas emissions reduction and
30 climate goals. The department shall issue the report of its findings to
31 the governor, the speaker of the assembly and the temporary president of
32 the senate and shall publish such report on its website.

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

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

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