

STATE OF NEW YORK

7114--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 11, 2023

Introduced by M. of A. JONES -- 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 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 amended by chapter 750 of the laws of 2021, paragraph (b) of subdivision 1 and subdivision 9 as amended by chapter 5 of the laws of 2022, 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"~~] "Biofuel" shall mean a fuel, produced in North America designated B100, B99, R100, or R99, that meets the requirements of the ASTM international specification D6751 or the requirements of the ASTM international specification D975. R100 or R99 shall not include cessed biomass with a feedstock that is not biomass; provided, however, that biofuel shall include R100 or R99 produced from hydroprocessing renewable biomass feedstocks.

(b) [~~"Renewable Hydrocarbon Diesel" shall mean a North American produced fuel derived from vegetable oils, animal fats, and other renewable feedstocks that meet the 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, designated B100 or B99, comprised of [~~biodiesel~~] biofuel produced in North America blended with petroleum heating oil that meets the requirements of the ASTM international specification D396, a fuel comprised of domestically-produced [~~renewable hydrocarbon diesel~~] R100 or R99 with petroleum heating oil

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

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1 that meets the specifications of ASTM international specification D975,
2 or other specifications as determined by the commissioner.

3 ~~[(d)]~~ (c) "Heating oil" shall mean petroleum oil refined for the
4 purpose of use as fuel for combustion in a space and/or water heating
5 system that meets the requirements of the ~~[ATSM]~~ ASTM international
6 specification D396 or other specifications as determined by the commis-
7 sioner.

8 ~~[(e)]~~ (d) "Feedstock" shall mean soybean oil, oil from annual cover
9 crops, algal oil, biogenic waste oils, fats or greases, or non-food
10 grade corn oil, provided that the commissioner may, by rules and regu-
11 lations, modify the definition of feedstock based on the vegetable oils,
12 animal fats or cellulosic biomass listed in table 1 of 40 C.F.R. §
13 80.1426.

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

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

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

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

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

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

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

45 (9) No bioheating fuel shall be sold to a customer that would void the
46 manufacturer's warranty for that burner or boiler type unless the
47 ~~[bioheat]~~ bioheating fuel provider warranties in writing to the customer
48 that the use of such bioheating fuel will be covered to the extent and
49 time limits of the warranty then covering such burner or boiler.

50 § 2. This act shall take effect immediately.