STATE OF NEW YORK

964--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 11, 2023

Introduced by M. of A. WOERNER, THIELE, SAYEGH, WILLIAMS, MAGNARELLI, COLTON, STIRPE, WALLACE, CARROLL, STERN, REYES, FAHY, PAULIN, JONES, LUPARDO, RIVERA, DICKENS, GLICK, SIMON, ZEBROWSKI, HEVESI, WEPRIN, ROZIC, SANTABARBARA, WALKER, COOK, VANEL, DINOWITZ, HUNTER, BARRETT, GUNTHER, SEAWRIGHT, JACOBSON, HYNDMAN, BENEDETTO, AUBRY, McMAHON, BURKE, JACKSON, BURDICK, ANDERSON, LUNSFORD, BRAUNSTEIN, BURGOS, CLARK, PEOPLES-STOKES, BRONSON, JEAN-PIERRE, RAJKUMAR, SIMPSON, RA, CRUZ, FALL, TAYLOR, K. BROWN, DURSO, DILAN, KIM, BICHOTTE HERMELYN, BUTTENSCHON, CONRAD, DeSTEFANO, GIBBS, MIKULIN, STECK, BORES, RAGA, ARDILA, SOLAGES, SHIMSKY, McDONALD, LAVINE, DE LOS SANTOS, GANDOLFO, CUNNINGHAM, EPSTEIN, LEE, SIMONE, L. ROSENTHAL, FORREST, EACHUS, LEVENBERG, SILLITTI, NOVAKHOV, ZINERMAN, PRETLOW, SEPTIMO, ZACCARO, MEEKS, PHEFFER AMATO, DAVILA, SLATER, O'DONNELL -- read once and referred to the Committee on Environmental Conservation -- 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 2024"

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

Section 1. Legislative findings and declarations:

1. The transportation sector in New York is a leading source of criteria pollutants and the leading source of greenhouse gas emissions that endanger public health and welfare by causing and contributing to increased air pollution and dangerous climate change. Meeting the pollution reduction requirements of the Climate Leadership and Communities Protection Act will require sharp decreases in transportation-related emissions.

2. Shifting from today's petroleum-based transportation fuels to alternative fuels has the potential to significantly reduce transporta-

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

LBD01696-03-3

tion emissions of air pollutants and greenhouse gases and is recommended by the Intergovernmental Panel on Climate Change as an important pathway for holding global warming to 1.5 degrees Celsius.

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

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

5. A clean fuels standard regulation would promote innovation production and use of non-petroleum fuels that reduce vehicle and fuel-related air pollution that endangers public health and welfare and disproportionately impacts disadvantaged communities. These reductions in air pollution would be paid for by the fossil fuel industry rather than ratepayers.

§ 2. Short title. This act may be known and may be cited as the "clean fuel standard of 2024".

§ 3. The environmental conservation law is amended by adding a new section 19-0333 to read as follows:

§ 19-0333. Clean fuel standard.

(1) A clean fuel standard is hereby established. The clean fuel standard is intended to reduce carbon intensity from the on-road transportation sector by no less than thirty percent by two thousand thirty-two and one hundred percent by two thousand fifty. In advance of two thousand thirty-two and every five years thereafter, the department shall promulgate regulations determining the minimum carbon intensity reduction to be achieved over the following five years to be implemented based upon advances in technology and to support achieving the goals of the climate action plan established pursuant to section 75-0103 of this chapter as determined by the commissioner. Fuels which provide net human health benefits through overall air quality improvements relative to diesel and gasoline usage shall be eligible. Aviation fuels shall be exempted from the clean fuel standard due to federal preemption, but sustainable aviation fuel shall be eligible to generate credits on an opt-in basis to help encourage development of a viable sustainable aviation fuel market.

(2) The clean fuel standard shall apply to all providers of transportation fuels, including electricity, in New York, shall be measured on a full fuels lifecycle basis and may be met through market-based methods by which providers exceeding the performance required by the clean fuel standard shall receive credits that may be applied to future obligations or traded to providers not meeting the clean fuel standard. The generation of credits must use a lifecycle emissions performance-based approach that is technology and feedstock neutral to achieve fuel decarbonization. In addition to fuel decarbonization, credits generated through the use of clean fuel types will help promote innovation and investment in such clean fuels. For purposes of this section the term "providers" shall include, but shall not be limited to, all refiners, blenders, producers or importers of transportation fuels, or enablers of electricity used as transportation fuel, "carbon intensity" means the quantity of lifecycle greenhouse gas emissions per unit of fuel energy, and "full fuels lifecycle" means the aggregate of greenhouse gas emissions, including direct emissions and significant indirect emissions as determined by the commissioner, such as significant emissions from land use changes. The full fuels lifecycle shall be assessed annually at all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use

of the finished fuel by the ultimate consumer, using the most recent version of the Argonne National Labs GREET model, or a derivation thereof that reflects the use of clean fuels in New York. In calculating full fuels lifecycle greenhouse gas emissions, the mass values for all non-carbon-dioxide greenhouse gases must be adjusted to account for their relative global warming potentials compared to an equivalent mass of carbon dioxide over an integrated twenty-year time frame after emission. This conversion shall use the most appropriate conversion relative to global warming potentials as determined by the commissioner based on the best available science.

(3) Within twelve months following adoption of the clean fuel standard, the commissioner, in consultation with the New York state energy research and development authority, shall promulgate regulations establishing a clean fuel standard with performance objectives to implement subdivision one of this section. The clean fuel standard shall take into consideration the low carbon fuel standard adopted in California and other states, may rely upon the carbon intensity of values established for transportation fuels in such states and shall include coordination with other Northeastern states to promote regional reductions in greenhouse gas emissions.

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

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

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

(7) Nothing in this section shall preclude the department from enacting or maintaining other programs to reduce greenhouse gas emissions from the transportation sector.

§ 4. This act shall take effect immediately.