

# 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:

- 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-
- 7 ties Protection Act will require sharp decreases in transportation-re-
- 8 lated emissions.
- 9 2. Shifting from today's petroleum-based transportation fuels to
- 10 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.

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

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

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

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

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

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

19 § 19-0333. Clean fuel standard.

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

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

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

11 (3) Within twelve months following adoption of the clean fuel stand-  
12 ard, the commissioner, in consultation with the New York state energy  
13 research and development authority, shall promulgate regulations estab-  
14 lishing a clean fuel standard with performance objectives to implement  
15 subdivision one of this section. The clean fuel standard shall take into  
16 consideration the low carbon fuel standard adopted in California and  
17 other states, may rely upon the carbon intensity of values established  
18 for transportation fuels in such states and shall include coordination  
19 with other Northeastern states to promote regional reductions in green-  
20 house gas emissions.

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

24 (5) Electric utilities, state agencies, and authorities, in consulta-  
25 tion with the climate justice working group and the climate action coun-  
26 cil established pursuant to section 75-0103 of this chapter, shall, to  
27 the extent practicable, invest or direct available and relevant program-  
28 matic resources to provide forty percent of such electric utility's,  
29 state agency's, or authority's overall credit value on electrified  
30 transportation programs, projects, or investments to directly benefit  
31 disadvantaged communities, including, but not limited to, electrifica-  
32 tion and battery swap programs for school or transit buses; electrifica-  
33 tion of drayage trucks; investment in public electric vehicle charging  
34 infrastructure and electric vehicle charging infrastructure in multi-fa-  
35 amily residences; investment in electric mobility solutions such as elec-  
36 tric vehicle sharing and ride hailing programs; multilingual marketing,  
37 education, and outreach designed to increase awareness and adoption of  
38 electric vehicles; and additional rebates and incentives for low-income  
39 individuals beyond existing local, federal, and state rebates and incen-  
40 tives.

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

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

50 § 4. This act shall take effect immediately.