

# STATE OF NEW YORK

964--B

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, 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, BENDETT, ALVAREZ, DARLING, CHANDLER-WATERMAN, MCGOWAN, FLOOD, BLUMENCRANZ, 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 -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- again reported from said committee with amendments, 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

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

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1 pollution reduction requirements of the Climate Leadership and Community  
2 Protection Act will require sharp decreases in transportation-related  
3 emissions.

4 2. Shifting from today's petroleum-based transportation fuels to  
5 alternative fuels has the potential to significantly reduce transporta-  
6 tion emissions of air pollutants and greenhouse gases and is recommended  
7 by the Intergovernmental Panel on Climate Change as an important pathway  
8 for holding global warming to 1.5 degrees Celsius.

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

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

14 5. A clean fuels standard regulation would promote innovation  
15 production and use of non-petroleum fuels that reduce vehicle and fuel-  
16 related air pollution that endangers public health and welfare and  
17 disproportionately impacts disadvantaged communities.

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

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

22 § 19-0333. Clean fuel standard.

23 1. A clean fuel standard is hereby established. The clean fuel stand-  
24 ard is intended to reduce greenhouse gas intensity from the on-road  
25 transportation sector by twenty percent by two thousand thirty-two. In  
26 advance of two thousand thirty-two and every five years thereafter, the  
27 department shall promulgate regulations determining the minimum addi-  
28 tional greenhouse gas intensity reduction to be achieved over the  
29 following five years, with further reductions to be implemented based  
30 upon advances in technology and to support achieving the requirements of  
31 the New York state climate leadership and community protection act and  
32 the goals of the scoping plan established pursuant to section 75-0103 of  
33 this chapter, as determined by the commissioner. Fuels which provide  
34 net human health benefits through overall air quality improvements rela-  
35 tive to diesel and gasoline usage shall be eligible. Aviation fuels  
36 shall be exempted from the clean fuel standard due to federal  
37 preemption, but sustainable aviation fuel shall be eligible to generate  
38 credits on an opt-in basis to help encourage development of a viable  
39 sustainable aviation fuel market.

40 2. The clean fuel standard shall apply to all providers of transporta-  
41 tion fuels, including electricity, in New York, shall be measured on a  
42 full fuels lifecycle basis and may be met through market-based methods  
43 by which providers exceeding the performance required by the clean fuel  
44 standard shall receive credits that may be applied to future obligations  
45 or traded to providers not meeting the clean fuel standard. The gener-  
46 ation of credits must use a lifecycle emissions performance-based  
47 approach that is technology and feedstock neutral to achieve greenhouse  
48 gas reductions. In addition, the department shall consider other envi-  
49 ronmental impacts of fuels in determining credits, including but not  
50 limited to crop displacement impacts and forms of pollution other than  
51 greenhouse gas emissions, whether or not occurring within the United  
52 States.

53 3. For purposes of this section the term "providers" shall include,  
54 but shall not be limited to, all refiners, blenders, producers or  
55 importers of transportation fuels, or enablers of electricity used as  
56 transportation fuel, "greenhouse gas intensity" means the quantity of

1 lifecycle greenhouse gas emissions per unit of fuel energy, and "full  
2 fuels lifecycle" means the aggregate greenhouse gas emissions, including  
3 direct emissions and indirect emissions, such as emissions from direct  
4 or indirect land use changes, whether or not such emissions occur within  
5 the United States, measured in carbon dioxide equivalents, as such term  
6 is defined in subdivision two of section 75-0101 of this chapter, with  
7 aggregate per unit fuel energy emissions determined by the commissioner  
8 after consideration of all relevant factors, including as contemplated  
9 by subdivision four of this section.

10 4. The full fuels lifecycle shall be assessed annually and such  
11 assessment shall include all stages of fuel and feedstock production and  
12 distribution, including but not limited to feedstock generation or  
13 extraction through the distribution, delivery, and use of the finished  
14 fuel by the ultimate consumer.

15 5. a. Within twenty-four months following the effective date of this  
16 section, the commissioner, in consultation with the New York state ener-  
17 gy research and development authority, shall promulgate regulations  
18 establishing a clean fuel standard with performance objectives to imple-  
19 ment subdivision one of this section. Such regulations shall include  
20 establishment of measures to limit costs and maximize savings.

21 b. The clean fuel standard shall take into consideration the low  
22 carbon fuel standard adopted in other states, and the recommendations of  
23 the scoping plan, and shall include coordination with other Northeastern  
24 states to promote regional reductions in greenhouse gas emissions.

25 c. In addition, such regulations shall:

26 (i) require providers to disclose all information material to deter-  
27 mine the full fuels lifecycle and impose rigorous standards regarding  
28 transparency with respect to information relevant to determining the  
29 full fuels lifecycle;

30 (ii) require such disclosure and transparency in order to obtain cred-  
31 its; and

32 (iii) impose significant penalties for failure to disclose or report  
33 information required by such regulations or as otherwise requested by  
34 the department.

35 d. Such regulations shall include fees for the registration of provid-  
36 ers to offset the costs associated with implementation of the clean fuel  
37 standard.

38 e. Such regulations shall allow for a deferral of the program based on  
39 emergency or forecasted conditions.

40 6. Electric utilities, state agencies, and authorities, in consulta-  
41 tion with the climate justice working group and the climate action coun-  
42 cil established pursuant to section 75-0103 of this chapter, shall, to  
43 the extent practicable, invest or direct available and relevant program-  
44 matic resources to provide forty percent of such electric utility's,  
45 state agency's, or authority's overall credit value on electrified  
46 transportation programs, projects, or investments to directly benefit  
47 disadvantaged communities, including, but not limited to, electrifica-  
48 tion and battery swap programs for school or transit buses; electrifica-  
49 tion of drayage trucks; investment in public electric vehicle charging  
50 infrastructure and electric vehicle charging infrastructure in multi-fa-  
51 family residences; investment in electric mobility solutions such as elec-  
52 tric vehicle sharing and ride hailing programs; multilingual marketing,  
53 education, and outreach designed to increase awareness and adoption of  
54 electric vehicles; and additional rebates and incentives for low-income  
55 individuals beyond existing local, federal, and state rebates and incen-  
56 tives.

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

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

10 § 4. This act shall take effect immediately.