

# STATE OF NEW YORK

1292--A

2023-2024 Regular Sessions

## IN SENATE

January 11, 2023

Introduced by Sens. PARKER, ADDABBO, BAILEY, BRESLIN, BROUK, CHU, CLEARE, COMRIE, COONEY, FERNANDEZ, GIANARIS, GOUNARDES, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, JACKSON, KAVANAGH, KRUEGER, LIU, MANNION, MATTERA, MAY, MAYER, MURRAY, MYRIE, PALUMBO, PERSAUD, RHOADS, ROLISON, RYAN, SALAZAR, SANDERS, SEPULVEDA, SERRANO, SKOUFIS, STAVISKY, TEDISCO, THOMAS, WEIK -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- 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 criteria pollutants and the leading source of greenhouse gas emissions that  
3 endanger public health and welfare by causing and contributing to  
4 increased air pollution and dangerous climate change. Meeting the  
5 pollution reduction requirements of the Climate Leadership and Community  
6 Protection Act will require sharp decreases in transportation-related  
7 emissions.  
8  
9 2. Shifting from today's petroleum-based transportation fuels to  
10 alternative fuels has the potential to significantly reduce transportation  
11 emissions of air pollutants and greenhouse gases and is recommended  
12 by the Intergovernmental Panel on Climate Change as an important pathway  
13 for holding global warming to 1.5 degrees Celsius.

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

LBD01696-05-4

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

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

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

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

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

14 § 19-0333. Clean fuel standard.

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

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

45 3. For purposes of this section the term "providers" shall include,  
46 but shall not be limited to, all refiners, blenders, producers or  
47 importers of transportation fuels, or enablers of electricity used as  
48 transportation fuel, "greenhouse gas intensity" means the quantity of  
49 lifecycle greenhouse gas emissions per unit of fuel energy, and "full  
50 fuels lifecycle" means the aggregate greenhouse gas emissions, including  
51 direct emissions and indirect emissions, such as emissions from direct  
52 or indirect land use changes, whether or not such emissions occur within  
53 the United States, measured in carbon dioxide equivalents, as such term  
54 is defined in subdivision two of section 75-0101 of this chapter, with  
55 aggregate per unit fuel energy emissions determined by the commissioner

1 after consideration of all relevant factors, including as contemplated  
2 by subdivision four of this section.

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

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

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

18 c. In addition, such regulations shall:

19 (i) require providers to disclose all information material to deter-  
20 mine the full fuels lifecycle and impose rigorous standards regarding  
21 transparency with respect to information relevant to determining the  
22 full fuels lifecycle;

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

25 (iii) impose significant penalties for failure to disclose or report  
26 information required by such regulations or as otherwise requested by  
27 the department.

28 d. Such regulations shall include fees for the registration of provid-  
29 ers to offset the costs associated with implementation of the clean fuel  
30 standard.

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

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

50 7. Within twenty-four months following the adoption of regulations  
51 implementing a clean fuel standard, the commissioner shall report to the  
52 legislature regarding the implementation of the program, the reductions  
53 in greenhouse gas emissions that have been achieved through the clean  
54 fuel standard and targets for future reductions in greenhouse gas emis-  
55 sions from the transportation sector.

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

4 § 4. This act shall take effect immediately.