STATE OF NEW YORK

6298

2023-2024 Regular Sessions

IN SENATE

April 12, 2023

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to enacting the advanced clean fleets law

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

Section 1. Subdivision 1 of section 19-0306-b of the environmental conservation law, as amended by chapter 109 of the laws of 2022, is amended to read as follows:

1. It shall be a goal of the state that one hundred percent of new passenger cars and trucks offered for sale or lease, or sold, or leased, for registration in the state shall be zero-emissions by two thousand thirty-five. It shall be a further goal of the state that **fifty percent of medium-duty and heavy-duty vehicles offered for sale or lease, or sold, or leased, for registration in the state be zero-emissions by two thousand thirty, that eighty percent of medium-duty and heavy-duty vehicles offered for sale or lease, or sold, or leased, for registration in the state be zero-emissions by two thousand thirty-five, and that** one hundred percent of medium-duty and heavy-duty vehicles offered for sale or lease, or sold, or leased, for registration in the state be zero-emissions by two thousand [~~forty-five~~] **forty** for all operations where feasible. It shall be further a goal of the state to transition to one hundred percent zero-emissions from new off-road vehicles and equipment purchased beginning in two thousand thirty-five, where feasible.

§ 2. Paragraph b of subdivision 2 of section 19-0306-b of the environmental conservation law, as amended by chapter 109 of the laws of 2022, is amended to read as follows:

b. Medium-duty and heavy-duty vehicle regulations requiring increasing volumes of new zero-emissions trucks and buses offered for sale or lease, or sold, or leased, for registration and operated in the state towards the target of **fifty percent of the sold or leased fleet transi-**

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

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tioning to zero-emissions vehicles by two thousand thirty, eighty percent of the sold or leased fleet transitioning to zero-emissions vehicles by two thousand thirty-five, and one hundred percent of the sold or leased fleet transitioning to zero-emissions vehicles by two thousand [~~forty-five~~] forty everywhere feasible.

§ 3. The environmental conservation law is amended by adding a new section 19-0306-c to read as follows:

§ 19-0306-c. Advanced clean fleets law for medium- and heavy-duty vehicles.

1. This section shall be known and may be cited and referred to as the "advanced clean fleets law."

2. As used in this section, the following terms shall have the following meanings:

(a) "Break-bulk goods" shall mean goods that are stowed on a drayage truck in individually counted units.

(b) "Drayage truck" shall mean any in-use on-road vehicle that transports cargo, such as containerized bulk or break-bulk goods, between a maritime terminal and intermodal rail facility, distribution center, or other near-port location.

(c) "Fleet operator" or "operator" shall mean the individual or business entity, whether in partnership, limited liability company, joint stock company, corporation, or any other form, which owns a truck, or a broker, which, as a principal or agent, sells, offers to sell, or negotiates for truck transportation by a motor carrier for compensation. For the purposes of this paragraph, "truck" shall refer to a medium-duty vehicle, as defined in paragraph (i) of this subdivision, a heavy-duty vehicle, as defined in paragraph (e) of this subdivision, a drayage truck, as defined in paragraph (b) of this subdivision, or any truck, as defined in paragraph (n) of this subdivision, owned, operated, or controlled as part of a high priority fleet, as defined in paragraph (f) of this subdivision.

(d) "Gross vehicle weight rating" or "GVWR" shall mean the weight of a vehicle consisting of the unladen weight and the maximum carrying capacity recommended by the manufacturer of such vehicle.

(e) "Heavy-duty vehicle" shall mean a vehicle with a gross vehicle weight rating greater than twenty thousand six hundred pounds.

(f) "High priority fleets" shall mean trucking fleets which are owned, operated, or controlled by entities with fifty million dollars or more in annual gross revenue and that own, operate, or control at least one vehicle with a gross vehicle weight rating of greater than eight thousand five hundred pounds, or trucking fleets which are owned, operated, or controlled by entities which own, operate, or control at least fifty vehicles with a gross vehicle weight rating of greater than eight thousand five hundred pounds.

(g) "Intermodal rail facility" shall mean a facility owned or operated by a public or private entity that receives both drayage trucks and locomotives.

(h) "Maritime terminal" shall mean wharves, bulkheads, quays, piers, docks, and other berthing locations and adjacent storage or adjacent areas and structures associated with the primary movement of cargo and goods from vessel to shore, or shore to vessel, including structures which are devoted to receiving, handling, holding, consolidating, and loading or delivery of waterborne shipments or passengers, including areas devoted to the maintenance of the terminal or equipment.

(i) "Medium-duty vehicle" shall mean a vehicle with a gross vehicle weight rating between fourteen thousand one pounds and twenty thousand six hundred pounds.

(j) "Motor carrier" shall mean a common and contract carrier of property by motor vehicle and a common carrier of household goods by motor vehicle.

(k) "Near zero emissions" shall refer to a vehicle that uses zero emission technologies or technologies that provide a pathway to zero emission operations or that incorporates other technologies that significantly reduce exhaust emissions of any greenhouse gas, criteria pollutant, or precursor pollutant under any and all possible operational modes and conditions.

(l) "On-road" shall mean a vehicle that is designed to be driven on public highways, as such term is defined in section one hundred thirty-four of the vehicle and traffic law, and that is registered or capable of being registered pursuant to article fourteen of the vehicle and traffic law.

(m) "Zero emission" shall refer to a vehicle powered by means of a battery or fuel cell or a combination thereof, or another source of power, that produces zero exhaust emissions of any greenhouse gas, criteria pollutant or precursor pollutant under any and all possible operational modes and conditions.

(n) "Truck" shall mean a vehicle with a gross vehicle weight rating of greater than eight thousand five hundred pounds.

3. No later than one year after the effective date of this section, all fleet operators, as defined in paragraph (c) of subdivision two of this section, shall be required to compile and deliver a report to the department which shall detail:

(a) the number and type of contracts the fleet operator may have to deliver items or perform work in the state of New York;

(b) what types of facilities the fleet operator uses to store such operator's medium and heavy-duty vehicle fleet as a home base, and whether such fleet is primarily fueled at such home base;

(c) whether such storage facility is owned or leased by the fleet operator;

(d) whether such storage facility contains refueling infrastructure and the type of such infrastructure;

(e) the body and fuel type of each vehicle of the operator's fleet;

(f) how many vehicles in the operator's fleet are zero emission vehicles or near zero emission vehicles compared to non-zero emission or non-near zero emission vehicles;

(g) the weight class of each vehicle in the operator's fleet;

(h) the estimated daily and annual mileage of each vehicle in the operator's fleet;

(i) whether the operator's fleet has a predictable usage pattern, and if so, a description of such pattern;

(j) whether the operator's fleet tows a trailer and if so, a description of the weight and type of such trailer;

(k) whether the operator's fleet is registered outside the state of New York, and if so, where such fleet is registered;

(l) the percentage of an operator's fleet being driven on public highways compared to the percentage parked at a facility on an average day;

(m) the average annual mileage of the operator's fleet;

(n) whether the operator's fleet is equipped with a global positioning system or other form of electronic mileage tracking;

(o) how many years after purchase or lease a vehicle in the operator's fleet is typically kept;

(p) whether the fleet operator is the owner of the fleet or is dispatching vehicles as a broker of such fleet; and

(q) any other information the department deems necessary in order to enforce the provisions of this section.

4. (a) Commencing in the year two thousand twenty-seven, no fleet operator shall newly purchase or lease a drayage truck in this state unless such truck is a zero emission or near zero emission vehicle.

(b) Commencing in the year two thousand thirty-five, no fleet operator shall maintain or drive a drayage truck in this state unless it is a zero emission or near zero emission vehicle.

(c) Commencing in the year two thousand forty, no fleet operator shall maintain or drive a medium or heavy-duty vehicle in this state unless it is a zero emission or near zero emission vehicle.

(d) Commencing in the year two thousand twenty-seven, all high priority fleet operators must replace a non-zero emission or non-near zero emission truck that has reached the end of its useful life, defined as occurring when either (i) the model year for the engine of such truck has exceeded eighteen years, or (ii) such truck has been driven more than eight hundred thousand miles, whichever is sooner, with a zero emission or near zero emission truck. High priority fleet operators shall not be required to replace a non-zero emission or non-near zero emission truck that has reached the end of its useful life, however, if such operator has determined that a replacement for such truck is unnecessary.

(e) (i) The commissioner may, in their discretion, exempt fleet operators from the zero emission or near zero emission fleet requirements described in this subdivision if no such zero emission or near zero emission vehicle model is available for purchase or lease which meets the needs of such fleet operator, in which case the fleet operator shall be able to purchase or lease an alternative vehicle model, including models with an internal combustion engine, where necessary. The commissioner shall promulgate rules and/or regulations to effectuate the provisions of this paragraph.

(ii) The department shall maintain, on a publicly accessible website, a list of vehicle models, sortable by manufacturer and model year, which are not yet available as a zero emission or near zero emission vehicle.

5. (a) The department shall establish a navigation program to provide information and assistance to fleet operators relating to the provisions of this section. Such program shall include assistance by a natural person by phone and email as well as the posting of information on a publicly accessible website.

(b) The navigation program shall provide the following:

(i) information about available zero emission and near zero emission models of vehicles for fleet operators covered under this section;

(ii) information about available programs to assist fleet operators in the purchasing or lease of zero emission and near zero emission vehicles, such as but not limited to, vouchers, rebates, competitive grants, low-cost financing, or any other program offered by any public or private entity; and

(iii) any other information the department deems relevant in order to compel compliance with the provisions of this section.

(c) The department shall conduct an outreach and education campaign to inform fleet operators of the provisions of this section.

6. No later than two years after the effective date of this section, and each year thereafter, the department shall issue a report on the state of the trucking industry as it relates to the provisions of this section. Such report shall include:

(a) the number of fleet operators covered by this section and an aggregate description of such operators' fleets, including the number of drayage trucks and medium and heavy duty vehicles across the state;

(b) the aggregate percentage of vehicles owned, operated, or controlled by fleet operators covered under this section which are zero emission or near zero emission vehicles compared to non-zero emission or non-near zero emission vehicles;

(c) an aggregate description of the purchase or lease of new vehicles by fleet operators and whether such vehicles are zero emission or near zero emission vehicles compared to non-zero emission or non-near zero emission vehicles;

(d) an aggregate description, by number and percentage, of non-zero emission or non-near zero emission vehicles covered by this section which were not able to be replaced with zero emission or near zero emission vehicles due to such vehicle model's unavailability, as well as such model's anticipated date, if any, of availability by any vehicle manufacturer;

(e) the estimated aggregate annual mileage of fleet operators covered by this section;

(f) the estimated aggregate annual tailpipe emissions of fleet operators covered by this section, based on the mileage reported in paragraph (e) of this subdivision;

(g) recommendations for any legislative changes to this section; and

(h) any other information the department deems necessary to include as a description of the trucking industry's compliance with this act.

Such report shall be delivered on an annual basis to the temporary president of the senate, the speaker of the assembly, and the governor. Such report shall also be posted for public review in a clear and conspicuous manner on the department's website.

7. (a) Any fleet operator who violates the provisions of subdivision four of this section shall be liable, in the case of a first violation, for a penalty not less than five hundred dollars nor more than eighteen thousand dollars for said violation; provided, however, that the commissioner may in their discretion suspend such penalty for a period of one calendar year. If at the end of such calendar year, such fleet operator remains noncompliant with subdivision four of this section, such penalty shall be reinstated and become immediately due and payable to the commissioner.

(b) In the case of a second or any further violation, the liability shall be for a penalty not to exceed twenty-six thousand dollars for said violation.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.