

STATE OF NEW YORK

72

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. SOLAGES, GALLAGHER, EPSTEIN, RAGA, SHRESTHA,
DE LOS SANTOS, COLTON, REYES -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the general business law, in relation to creating climate liability for dangers to safety and health caused by certain fossil fuel related activities

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

1 Section 1. The legislature finds that the consequences of a changing
2 climate directly impact New York state. Around the world thousands of
3 scientific studies have documented changes in air and water temper-
4 atures, melting glaciers, diminishing snow cover, shrinking sea ice,
5 rising sea levels, ocean acidification, and increasing atmospheric water
6 vapor. Warming trends and incidences of intense heat waves will
7 contribute to greater localized heat stresses; heavy rainfall events
8 that exacerbate localized flooding will continue to impact food
9 production, natural ecosystems, and water resources; and sea-level rise
10 will increasingly threaten sensitive coastal communities and ecosystems.
11 Climate change is adversely affecting New York's economic well-being,
12 public health, natural resources, and environment.
13 To achieve the goals of the Climate Leadership and Community
14 Protection Act (hereinafter the "Climate Act") that include 70% renewable
15 electricity by 2030, 100% zero-emission electricity by 2040, a 40%
16 reduction in statewide GHG emissions from 1990 levels by 2030, an 85%
17 reduction in statewide GHG emissions from 1990 levels by 2050, and net
18 zero emissions statewide by 2050, the New York State Climate Action
19 Council (the "Council") determined in its Scoping Plan for the Climate
20 Act that "it is imperative that New York take immediate action to
21 aggressively reduce GHG emissions as well as invest in resiliency measures."
22 Although the plan is not authoritative on the full scope of

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

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1 damage, the cost of not taking immediate and aggressive action, accord-
2 ing to the Council, is approximately \$115 billion dollars.

3 The public health impacts of GHG and co-pollutant emissions are simi-
4 larly devastating. Increased heat stress (such as heat edema, heat
5 stroke, heat cramps, heat stress, and dehydration) and other heat-relat-
6 ed morbidity and mortality; exacerbation of respiratory conditions
7 (including pneumonia, asthma, and chronic obstructive pulmonary disease)
8 and cardiovascular disease; increased duration and severity of allergy
9 symptoms due to increased duration and intensity of pollen season;
10 increased risk for vector-borne diseases (such as Lyme disease, West
11 Nile virus, and other pathogens); increased risk of injury and death
12 following extreme precipitation events and flooding (or, conversely,
13 after droughts); rising sea levels that threaten infrastructure; the
14 saltwater intrusion of the State's groundwater resources (which may
15 impact drinking water supplies); and poor indoor air quality (such as
16 mold and moisture) are just some of those impacts. Additionally,
17 climate-driven impacts are magnified in New York's historically margi-
18 nalized communities that have been disproportionately affected by and
19 are on the front lines of climate change.

20 The legislature finds that the New York Constitution grants every New
21 Yorker the right to mitigate these impacts. Article I, Section 19 of
22 the New York State Constitution reads: "Each person shall have a right
23 to clean air and water, and a healthful environment." Overwhelmingly
24 approved by the voters in 2021, this "green amendment" to our constitu-
25 tion placed a right to a healthful environment alongside the freedom of
26 speech, religion, and property in our Bill of Rights. As such, every
27 New Yorker should have the tools to best utilize that right. This bill
28 seeks to provide them with at least one tool.

29 The legislature also finds that there has been a scientific consensus
30 for several decades that climate change is occurring exemplified by the
31 testimony of Dr. James Hansen of the National Aeronautics and Space
32 Administration in June 1988 to the U.S. Senate and the formation later
33 that year of the United Nations Intergovernmental Panel on Climate
34 Change.

35 The legislature further finds that the fossil fuel industry has known
36 for decades that their products overwhelmingly contributed to and accel-
37 erated climate change, yet they have - and continue to - lie about this
38 fact to the public. Documents unveiled by litigation and investigative
39 journalists demonstrate that as early as the 1950s, the industry became
40 aware of the potentially catastrophic impact of its products and even in
41 the face of scientific consensus shortly thereafter and research
42 conducted by their own scientists affirming the impacts of their busi-
43 ness, the industry outright denied that climate change was real, spread
44 disinformation to cast doubt on the science, dismissed regulatory action
45 as insufficient (after no longer being able to deny climate change
46 outright), and currently advertise "green" efforts to the public that
47 mask the industry's lack of real investment in resiliency and energy-
48 source transition. A December 2022 report by the Oversight Committee in
49 Congress also revealed internal documents from senior leaders in the
50 industry where, among other things, they explicitly reject taking
51 accountability for the emissions of their products.

52 By conduct and impact, the industry has intentionally obfuscated the
53 truth about climate change and outright deceived the public in order to
54 continue dependence on their products. The legislature finds that this
55 conduct and the subsequent impact on the public is not political speech,
56 but fundamentally commercial activity with incidental political impact.

1 We also find this conduct to be a substantial factor in affecting the
2 public's perception of the threat of climate change, scientific consen-
3 sus notwithstanding.

4 New Yorkers should have the ability to hold those responsible for
5 climate change accountable for their deceptive practices and the cata-
6 clysmic impacts these practices have yielded. This bill seeks to provide
7 them with that opportunity.

8 § 2. The general business law is amended by adding a new article 20-B
9 to read as follows:

10 ARTICLE 20-B

11 FOSSIL FUEL RELATED ACTIVITIES

12 Section 328. Definitions.

13 328-a. Fossil fuel industry member climate liability.

14 328-b. Defense to liability.

15 328-c. Right of action.

16 § 328. Definitions. For purposes of this article, the following terms
17 shall have the following meanings:

18 1. "Covered period" shall mean the period from January first, nineteen
19 eighty-nine to the effective date of this article.

20 2. "Fossil fuel industry member" shall mean a firm, corporation,
21 company, partnership, society, joint stock company or any other entity
22 or association that emitted or caused to be emitted through the extract-
23 ing, storing, transporting, refining, importing, exporting, producing,
24 manufacturing, distributing, compounding, marketing, or offering for
25 wholesale or retail sale, a qualified product with total greenhouse gas
26 emissions of at least one billion metric tons of carbon dioxide equiv-
27 alent during the covered period. It shall not include any public utili-
28 ty, public authority, or the state of New York or its political subdivi-
29 sions.

30 3. "Qualified product" shall mean a fossil fuel product including, but
31 not limited to:

32 (a) crude petroleum oil and all other hydrocarbons, regardless of
33 gravity, that are produced at the wellhead in liquid form by ordinary
34 production methods.

35 (b) natural, manufactured, mixed, and byproduct hydrocarbon gas.

36 (c) refined crude oil, crude tops, topped crude, processed crude,
37 processed crude petroleum, residue from crude petroleum, cracking stock,
38 uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil,
39 casinghead gasoline, natural-gas gasoline, kerosene, benzine, wash oil,
40 waste oil, blended gasoline, lubricating oil, and blends or mixtures of
41 oil with one or more liquid products or byproducts derived from oil or
42 gas.

43 (d) any physical waste generated in the extracting, storing, trans-
44 porting, refining, importing, producing, manufacturing, distributing, or
45 compounding a qualified product defined in paragraphs (a), (b), and/or
46 (c) of this subdivision which contains or is contaminated by any quali-
47 fied product defined in paragraphs (a), (b), and/or (c) of this subdivi-
48 sion or any substance appearing on a list within regulations promulgated
49 by the department of environmental conservation pursuant to section
50 37-0101 of the environmental conservation law.

51 4. "Reasonable controls and procedures" shall mean policies that
52 include, but are not limited to: (a) instituting business practices to
53 prevent pollution, including but not limited to the release of green-
54 house gases which contribute to climate change and emissions which
55 contribute to adverse health impacts; and (b) preventing deceptive acts
56 and practices and false advertising and otherwise ensuring compliance

1 with all provisions of article twenty-two-A of this chapter. Acts or
2 practices related to environmental commitment, performance, or sustaina-
3 bility shall also be subject to this subdivision and shall be clear,
4 objective, and verifiable. The net impression of such acts and practices
5 shall not mislead a reasonable person about the fossil fuel industry
6 member's environmental commitment, performance, or sustainability. This
7 subdivision may not be construed to impose liability on any speech or
8 conduct protected by the first amendment of the United States Constitu-
9 tion, as made applicable to the states through the United States Supreme
10 Court's interpretation of the fourteenth amendment of the United States
11 Constitution.

12 5. "Deceptive acts or practices" shall mean those acts and practices
13 which are unlawful pursuant to article twenty-two-A of this chapter.

14 6. "False advertising" shall have the same meaning as defined in arti-
15 cle twenty-two-A of this chapter.

16 § 328-a. Fossil fuel industry member climate liability. Any fossil
17 fuel industry member whose conduct has caused or contributed to climate
18 change in New York state, whether directly or indirectly, shall be
19 liable for damages under this article.

20 § 328-b. Defense to liability. Any fossil fuel industry member that
21 establishes and implements reasonable controls and procedures may offer
22 evidence of those controls and procedures to limit the liability imposed
23 under section three hundred twenty-eight-a of this article; provided,
24 however, such evidence shall not be a complete defense to liability.
25 When determining the impact of such controls and procedures as a defense
26 to liability, a court may consider the duration that such controls and
27 procedures are in place in relation to the duration of the conduct in
28 violation of section three hundred twenty-eight-a of this article or any
29 other means of measuring the mitigating effects of any controls and
30 procedures relative to the complete impact of the underlying conduct.

31 § 328-c. Right of action. Any person, government entity, firm, corpo-
32 ration or association that has been damaged as a result of a fossil fuel
33 industry member's conduct as described in section three hundred twenty-
34 eight-a of this article shall be entitled to bring an action for recov-
35 ery of damages in:

36 1. the county in which all or a substantial part of the events or
37 omissions giving rise to the claim occurred;

38 2. the county of residence for any one of the natural person defend-
39 ants at the time the cause of action accrued;

40 3. the county of the principal office in this state of any one of the
41 defendants that is not a natural person; or

42 4. the county of residence for any plaintiff if the plaintiff is a
43 natural person residing in this state.

44 § 3. Severability. If any clause, sentence, paragraph, subdivision,
45 section or part of this act shall be adjudged by any court of competent
46 jurisdiction to be invalid, such judgment shall not affect, impair, or
47 invalidate the remainder thereof, but shall be confined in its operation
48 to the clause, sentence, paragraph, subdivision, section or part thereof
49 directly involved in the controversy in which such judgment shall have
50 been rendered. It is hereby declared to be the intent of the legislature
51 that this act would have been enacted even if such invalid provisions
52 had not been included herein.

53 § 4. This act shall take effect immediately.