

STATE OF NEW YORK

4065

2025-2026 Regular Sessions

IN SENATE

January 31, 2025

Introduced by Sen. PARKER -- 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 and the tax law, in relation to establishing a five-year clean fuel standard pilot program in New York state

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

1 Section 1. The environmental conservation law is amended by adding a
2 new section 3-0322 to read as follows:

3 § 3-0322. Sustainable aviation fuel tax credit.

4 1. Except as otherwise provided under this section, a sustainable
5 aviation fuel producer may claim a credit against the tax imposed by
6 section three hundred one-e of the tax law in an amount equal to one
7 dollar per gallon of sustainable aviation fuel purchased in this state
8 during the tax year by a business for use as fuel for flights departing
9 in this state. The amount of credit per gallon allowed under this
10 section increases by two cents for each additional one percent reduction
11 in carbon dioxide equivalent emissions above fifty percent but shall not
12 exceed two dollars per gallon.

13 2. A taxpayer shall not claim a credit under this section unless the
14 department issued a certificate to the taxpayer. The taxpayer shall
15 attach the certificate to the annual return filed under this act on
16 which a credit under this section is claimed. The certificate required
17 under this subdivision shall state all of the following:

18 a. The name, business address, and tax identification number of the
19 taxpayer.

20 b. The total amount of gallons of sustainable aviation fuel that is
21 purchased in this state during the tax year from the taxpayer and to be
22 used as fuel in an aircraft departing from an airport in this state.

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

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1 c. The number of gallons of sustainable aviation fuel for which the
2 percentage reduction in carbon dioxide equivalent emissions is above
3 fifty percent and that percentage amount.

4 3. If the amount of the credit allowed under this section exceeds the
5 taxpayer's tax liability for the tax year, that portion that exceeds the
6 tax liability for the tax year must be refunded.

7 4. As used in this section, the following terms shall have the follow-
8 ing meanings:

9 a. "Annual carbon intensity standard" means the applicable standard
10 established and published by the department, including but not limited
11 to standards for verification.

12 b. "Aviation fuel" means kero-jet fuel and gasoline as that term is
13 described in subdivision (a) of section three hundred one-b of the tax
14 law.

15 c. "Biomass" means any organic matter that is available on a renewable
16 or recurring basis, including agricultural crops, wood and wood waste
17 and residues, plants including aquatic plants, grasses, residues,
18 fibers, animal waste, and the organic portion of solid wastes.

19 d. "Carbon dioxide equivalent" means a metric measure used to compare
20 the emissions from various greenhouse gases based upon their global-
21 warming potential.

22 e. "Carbon intensity" means the quantity of life-cycle greenhouse gas
23 emission, per unit of fuel energy, expressed in grams of carbon dioxide
24 equivalent per megajoule.

25 f. "Sustainable aviation fuel" means liquid fuel that:

26 (i) consists of synthesized hydrocarbons and meets the requirements
27 of:

28 (A) the American Society for Testing and Materials International Stan-
29 dard D7566; or

30 (B) Standard D1655;

31 (ii) is derived from biomass resources, waste streams, renewable or
32 zero-carbon energy sources, or gaseous carbon oxides;

33 (iii) is not derived from any palm derivatives; and

34 (iv) the fuel production pathway for the sustainable aviation fuel
35 achieves at least a fifty percent lifecycle greenhouse gas emissions
36 reduction in comparison with petroleum-based jet fuel, as determined by
37 a test that shows either:

38 (A) that the fuel production pathway achieves at least a fifty percent
39 reduction of the aggregate attributional core lifecycle emissions and
40 the positive induced land use change values under the lifecycle method-
41 ology for sustainable aviation fuels adopted by the International Civil
42 Aviation Organization with the agreement of the United States; or

43 (B) that the fuel production pathway achieves at least a fifty percent
44 reduction of the aggregate attributional core lifecycle greenhouse gas
45 emissions values utilizing the most recent version of Argonne National
46 Laboratory's GREET model, inclusive of but not limited to climate smart
47 agricultural practices, on-site renewables and carbon capture and
48 sequestration.

49 5. The total amount of tax credits listed on certificates of tax cred-
50 it issued by the commissioner pursuant to this article may not exceed
51 thirty million dollars for each year the credit is available.

52 6. Each aviation fuel producer claiming such credit shall report to
53 the commissioner of the department of taxation and finance on a monthly
54 basis the amount of sustainable aviation fuel to be sold within the
55 state. The commissioner of the department of taxation and finance shall
56 make all such reports publicly available on such department's website.

1 7. The department of taxation and finance shall determine a fair and
2 equitable maximum distribution of such credit per eligible entity.

3 § 2. The tax law is amended by adding a new section 50 to read as
4 follows:

5 § 50. Sustainable aviation fuel tax credit. (a) Allowance of credit.
6 For taxable years beginning on or after January first, two thousand
7 twenty-five, a taxpayer subject to tax pursuant to articles nine,
8 nine-A, thirteen-A, or twenty-two of this chapter shall be allowed a
9 credit against such tax pursuant to the provisions referenced in subdivi-
10 vision (f) of this section. The amount of the credit shall be equal to
11 the amount determined pursuant to section 3-0322 of the environmental
12 conservation law. No cost or expense paid or incurred by the taxpayer
13 that is included as part of the calculation of such credit shall be the
14 basis of any other tax credit allowed under this chapter.

15 (b) Eligibility criteria. To be eligible for the aviation fuel tax
16 credit, the taxpayer shall have been issued a certificate of tax credit
17 by the department of environmental conservation pursuant to section
18 3-0322 of the environmental conservation law, which certificate shall
19 set forth the amount of the credit that may be claimed for the taxable
20 year. The taxpayer shall be allowed to claim only the amount listed on
21 the certificate of tax credit for the taxable year. A taxpayer that is a
22 partner in a partnership, member of a limited liability company, or
23 shareholder in a subchapter S corporation that has received a certif-
24 icate of tax credit shall be allowed its pro rata share of the credit
25 earned by the partnership, limited liability company, or subchapter S
26 corporation.

27 (c) Tax return requirement. The taxpayer shall be required to attach
28 to its tax return, in the form prescribed by the commissioner, proof of
29 receipt of its certificate of tax credit issued by the department of
30 environmental conservation.

31 (d) Information sharing. Notwithstanding any provision of this chap-
32 ter, employees of the division of criminal justice services and the
33 department shall be allowed and are directed to share and exchange:

34 (1) information derived from tax returns or reports that is relevant
35 to a taxpayer's eligibility to participate in the sustainable aviation
36 fuel tax credit program;

37 (2) information regarding the credit applied for, allowed, or claimed
38 pursuant to this section and taxpayers that are applying for the credit
39 or that are claiming such credit; and

40 (3) information contained in or derived from credit claim forms
41 submitted to the department and applications for admission into the
42 sustainable aviation fuel tax credit program. All information exchanged
43 between the department and the department of environmental conservation
44 shall not be subject to disclosure or inspection under the state's free-
45 dom of information law.

46 (e) Credit recapture. If a certificate of tax credit issued by the
47 department of environmental conservation is revoked by such department,
48 the amount of credit described in this section and claimed by the
49 taxpayer prior to such revocation shall be added back to tax in the
50 taxable year in which any such revocation becomes final. Post credit
51 issuance revocation shall only apply to the previous taxable year.

52 (f) Cross references. For application of the credit provided for in
53 this section, see the following provisions of this chapter:

54 (1) article 9: section 187-s;

55 (2) article 9-A: section 210-b, subdivision 61;

56 (3) article 22: section 606, subsection (www).

1 § 3. The tax law is amended by adding a new section 187-s to read as
2 follows:

3 § 187-s. Sustainable aviation fuel tax credit. (a) Allowance of cred-
4 it. A taxpayer shall be allowed a credit, to be computed as provided in
5 section fifty of this chapter, against the tax imposed by this article.

6 (b) Application of credit. In no event shall the credit under this
7 section be allowed in an amount that will reduce the tax payable to less
8 than the applicable minimum tax fixed by section one hundred eighty-two
9 of this article. If, however, the amount of credit allowable under this
10 section for any taxable year reduces the tax to such amount, any amount
11 of credit not deductible in such taxable year shall be treated as an
12 overpayment of tax to be refunded in accordance with the provisions of
13 section one thousand eighty-six of this chapter. Provided, however, the
14 provisions of subsection (c) of section one thousand eighty-eight of
15 this chapter notwithstanding, no interest shall be paid thereon.

16 § 4. Section 210-B of the tax law is amended by adding a new subdivi-
17 sion 61 to read as follows:

18 61. Sustainable aviation fuel tax credit. (a) Allowance of credit. A
19 taxpayer shall be allowed a credit, to be computed as provided in
20 section fifty of this chapter, against the tax imposed by this article.

21 (b) Application of credit. The credit allowed under this subdivision
22 for any taxable year shall not reduce the tax due for such year to less
23 than the fixed dollar minimum amount prescribed in paragraph (d) of
24 subdivision one of section two hundred ten of this article. However, if
25 the amount of credits allowed under this subdivision for any taxable
26 year reduces the tax to such amount or if the taxpayer otherwise pays
27 tax based on the fixed dollar minimum amount, any amount of credit thus
28 not deductible in such taxable year shall be treated as an overpayment
29 of tax to be credited or refunded in accordance with the provisions of
30 section one thousand eighty-six of this chapter. Provided, however, the
31 provisions of subsection (c) of section one thousand eighty-eight of
32 this chapter notwithstanding, no interest shall be paid thereon.

33 § 5. Section 606 of the tax law is amended by adding a new subsection
34 (www) to read as follows:

35 (www) Sustainable aviation fuel tax credit. (1) Allowance of credit. A
36 taxpayer shall be allowed a credit, to be computed as provided in
37 section fifty of this chapter, against the tax imposed by this article.

38 (2) Application of credit. If the amount of the credit allowed under
39 this subsection for the taxable year exceeds the taxpayer's tax for such
40 year, the excess shall be treated as an overpayment of tax to be credit-
41 ed or refunded in accordance with the provisions of section six hundred
42 eighty-six of this article, provided, however, that no interest shall be
43 paid thereon.

44 § 6. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
45 of the tax law is amended by adding a new clause (xiv) to read as
46 follows:

47 <u>(xiv) Sustainable aviation fuel</u>	<u>Amount of credit under</u>
48 <u>tax credit under subsection</u>	<u>subdivision sixty-one of</u>
49 <u>(www)</u>	<u>section two hundred ten-B</u>

50 § 7. This act shall take effect immediately.