

STATE OF NEW YORK

1229

2025-2026 Regular Sessions

IN SENATE

January 8, 2025

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the energy law and the tax law, in relation to establishing a sustainable aviation fuel tax credit; to amend the environmental conservation law, in relation to directing the climate action council to incorporate the use of sustainable aviation fuel in its updated scoping plan; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. The energy law is amended by adding a new section 5-129 to
2 read as follows:

3 § 5-129. Sustainable aviation fuel certification. 1. For the purposes
4 of this section, the following terms shall have the following meanings:

5 (a) "Applicable material" means (i) monoglycerides, diglycerides, and
6 triglycerides; (ii) free fatty acids; and (iii) fatty acid esters.

7 (b) "ASTM" means the American Society for Testing and Materials, which
8 is a private organization that utilizes committees of industry represen-
9 tatives and regulators to develop product quality standards and test
10 methods to be used by industries, regulatory agencies, and purchasing
11 agents.

12 (c) "Authority" means the New York state energy research and develop-
13 ment authority.

14 (d) "Aviation gasoline" means any gasoline that is used to produce or
15 generate power for propelling internal combustion engine aircraft,
16 including but not limited to, any gasoline that is:

17 (i) invoiced and billed by a producer, manufacturer, refiner, or blen-
18 der to a distributor or dealer, by a distributor to a dealer or consum-
19 er, or by a dealer to consumer, as "aviation gasoline" that meets spec-
20 ifications in ASTM specification D910-16 or any other ASTM specification

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

LBD03212-01-5

1 as gasoline appropriate for use in producing or generating power for
2 propelling internal combustion engine aircraft; or

3 (ii) sold to a dealer of aviation gasoline for dispensing directly
4 into the fuel tank of an aircraft.

5 (e) "Biomass" means any organic material other than:

6 (i) oil or natural gas, or any product thereof; or

7 (ii) coal (including lignite) or any product thereof.

8 (f) "Certified sustainable aviation fuel" means a sustainable aviation
9 fuel certified as such by the authority pursuant to the provisions of
10 this section.

11 (g) "Certified qualifying SAF mixture" means a qualifying SAF mixture
12 certified as such by the authority pursuant to the provisions of this
13 section.

14 (h) "Commissioner" means the president of the New York state energy
15 research and development authority.

16 (i) "Dealer" means any entity, except a distributor, engaged in the
17 business of buying and selling gasoline and/or other petroleum products
18 in this state.

19 (j) "Distributor" means any entity that (i) receives petroleum
20 products in New York state for storage and subsequent distribution by
21 tank car or tank truck or both; (ii) produces, manufactures, or refines
22 petroleum products in this state; or (iii) imports petroleum products
23 into this state via boat, barge, or pipeline for storage and subsequent
24 delivery at or further transportation from boat, barge, or pipeline
25 terminals in New York state.

26 (k) "Jet fuel" means blends of hydrocarbons derived from crude petro-
27 leum, natural gasoline, and synthetic hydrocarbons, intended for use in
28 aviation turbine engines, and that meet the specifications in ASTM spec-
29 ification D1655-12.

30 (l) "Lifecycle greenhouse gas emissions reduction percentage" means,
31 with respect to any sustainable aviation fuel, the percentage reduction
32 in lifecycle greenhouse gas emissions achieved by such fuel as compared
33 with petroleum-based jet fuel, as defined in accordance with:

34 (i) The most recent Carbon Offsetting and Reduction Scheme for Inter-
35 national Aviation which has been adopted by the International Civil
36 Aviation Organization with the agreement of the United States; or

37 (ii) Any similar methodology which satisfies the criteria under
38 section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)), as
39 in effect on the effective date of this section.

40 (m) "Qualifying SAF mixture" means a sustainable aviation fuel, where
41 the biomass used as feedstock in the production of such sustainable
42 aviation fuel is derived from domestically grown corn and/or soybean in
43 a minimum amount as determined by the authority.

44 (n) "Sustainable aviation fuel" or "SAF" means liquid fuel, the
45 portion of which is not kerosene, which:

46 (i) meets the requirements of:

47 (A) ASTM International Standard D7566; or

48 (B) The Fischer Tropsch provisions of ASTM International Standard
49 D1655, Annex A1;

50 (ii) is (1) not derived from co-processing an applicable material, or
51 materials derived from an applicable material; and (2) derived with a
52 feedstock which is biomass;

53 (iii) is not derived from palm fatty acid distillates or petroleum;
54 and

1 (iv) has been certified as having a lifecycle greenhouse gas emissions
2 reduction percentage of at least fifty percent under paragraph (c) of
3 subdivision three of this section.

4 (o) "SAF producer" means an entity engaged in the business of produc-
5 ing sustainable aviation fuel and/or blending sustainable aviation fuel
6 with aviation gasoline or jet fuel.

7 2. The commissioner shall develop a method by which SAF producers may
8 apply to the authority to have certain sustainable aviation fuels
9 produced by such SAF producers certified as certified sustainable
10 aviation fuel and/or certified qualifying SAF mixtures for the purposes
11 of receiving the sustainable aviation fuel credit under section fifty of
12 the tax law. The commissioner shall determine any evidence that shall be
13 required to be submitted to the authority in support of such applica-
14 tions.

15 3. To be certified under this section as a certified sustainable
16 aviation fuel, a sustainable aviation fuel shall be:

17 (a) produced in New York state or blended with aviation gasoline or
18 jet fuel in New York state;

19 (b) sold in New York state to a purchaser who certifies that the
20 sustainable aviation fuel is for use as fuel in an aircraft departing
21 from an airport in New York state; and

22 (c) certified by the authority as having a lifecycle greenhouse gas
23 emissions reduction percentage of at least fifty percent.

24 4. (a) A SAF producer seeking certification of sustainable aviation
25 fuel and/or a qualifying SAF mixture under this section shall submit an
26 application under subdivision two of this section within one month of
27 the close of its taxable year for all such sustainable aviation fuel
28 and/or qualifying SAF mixtures for which such SAF producer is seeking
29 certification.

30 (b) Within thirty days of receiving an application for certification
31 of sustainable aviation fuel and/or qualifying SAF mixtures under this
32 section, the authority shall:

33 (i) issue a certification for such sustainable aviation fuel and/or
34 qualifying SAF mixture;

35 (ii) request additional information from the SAF producer; or

36 (iii) reject such application for certification.

37 (c) Where the authority requests additional information from a SAF
38 producer under subparagraph (ii) of paragraph (b) of this subdivision,
39 the authority shall issue certification or reject the application within
40 thirty days of receiving such additional information. Where such SAF
41 producer fails to submit such additional information within thirty days
42 of such request, such application for certification shall be deemed
43 rejected.

44 5. (a) A certification issued under this section shall include (i) the
45 fiscal year for which such certification is issued; (ii) the amount of
46 credit for which the SAF producer is eligible under section fifty of the
47 tax law pursuant to such certification; and (iii) the taxable year for
48 which the SAF producer may claim the tax credit under section fifty of
49 the tax law.

50 (b) A certification for a sustainable aviation fuel issued under this
51 section shall be applicable to either blending or producing such
52 sustainable aviation fuel, but shall not entitle the SAF producer to
53 separate credits under section fifty of the tax law for both blending
54 and producing the same sustainable aviation fuel.

1 6. The commissioner is hereby authorized to promulgate any rules
2 and/or regulations necessary to effectuate the provisions of this
3 section.

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

6 § 50. Sustainable aviation fuel credit. (a) Allowance of credit. A
7 taxpayer subject to tax under article nine, nine-a, or twenty-two of
8 this chapter shall be allowed a credit against such tax pursuant to the
9 provisions referenced in subdivision (d) of this section. The credit (or
10 pro rata share of earned credit in the case of a partnership) for each
11 gallon of certified sustainable aviation fuel produced at a sustainable
12 aviation fuel plant on or after January first, two thousand twenty-seven
13 shall equal one dollar and twenty-five cents per gallon of certified
14 sustainable aviation fuel; provided, however, that if such certified
15 sustainable aviation fuel is a certified qualifying SAF mixture, such
16 credit (or pro rata share of earned credit in the case of a partnership)
17 for each gallon of such certified sustainable aviation fuel produced at
18 a sustainable aviation fuel plant on or after January first, two thou-
19 sand twenty-seven shall equal one dollar and fifty cents per gallon.
20 The credit under this section shall be capped at two million four
21 hundred thousand dollars per taxpayer per taxable year. If the taxpayer
22 is a partner in a partnership or shareholder of a New York S corpo-
23 ration, then the cap imposed by the preceding sentence shall be applied
24 at the entity level, so that the aggregate credit allowed to all the
25 partners or shareholders of each such entity in the taxable year does
26 not exceed two million four hundred thousand dollars. The tax credit
27 allowed pursuant to this section shall apply to taxable years beginning
28 January first, two thousand twenty-seven through January first, two
29 thousand thirty-two, inclusive.

30 (b) Definitions. For the purposes of this section, the following terms
31 shall have the following meanings:

32 (1) "Certified sustainable aviation fuel" shall mean a sustainable
33 aviation fuel certified as such under section 5-129 of the energy law.

34 (2) "Certified qualifying SAF mixture" shall mean a qualifying SAF
35 mixture certified as such under section 5-129 of the energy law.

36 (3) "Qualifying SAF mixture" shall have the same meaning as defined by
37 section 5-129 of the energy law.

38 (4) (i) "Sustainable aviation fuel" or "SAF" shall have the same mean-
39 ing as defined by section 5-129 of the energy law.

40 (5) "Sustainable aviation fuel plant" means a commercial facility
41 located in New York state at which one or more sustainable aviation
42 fuels are produced.

43 (c) Reporting requirements. A taxpayer wishing to claim a credit under
44 this section shall submit to the commissioner (1) the certification
45 received for certified sustainable aviation fuel under section 5-129 of
46 the energy law; and (2) any other information deemed necessary by the
47 commissioner.

48 (d) Cross-references. For application of the credit provided for in
49 this section, see the following provisions of this chapter:

50 (1) article 9: section 187-s.

51 (2) article 9-A: section 210-B, subdivision 61.

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

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

55 § 187-s. Sustainable aviation fuel credit. 1. Allowance of credit. A
56 taxpayer shall be allowed a credit to be computed as provided in section

1 fifty of this chapter against the tax imposed by this article. Provided,
2 however, that the amount of such credit allowed against the tax imposed
3 by section one hundred eighty-four of this article shall be the excess
4 of the amount of such credit over the amount of any credit allowed by
5 this section against the tax imposed by section one hundred eighty-three
6 of this article.

7 2. Application of credit. In no event shall the credit under this
8 section be allowed in an amount which will reduce the tax payable to
9 less than the applicable minimum tax fixed by section one hundred eight-
10 y-three of this article. If, however, the amount of the credit allowed
11 under this section for any taxable year reduces the tax to such amount,
12 the excess shall be treated as an overpayment of tax to be credited or
13 refunded in accordance with the provisions of section six hundred eight-
14 y-six of this chapter. Provided, however, the provisions of subsection
15 (c) of section one thousand eighty-eight of this chapter notwithstand-
16 ing, no interest shall be paid thereon.

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

19 61. Sustainable aviation fuel credit. (a) Allowance of credit. A
20 taxpayer shall be allowed a credit, to be computed as provided in
21 section fifty of this chapter, against the taxes imposed by this arti-
22 cle.

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

35 § 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
36 of the tax law is amended by adding a new clause (lii) to read as
37 follows:

38 <u>(lii) Sustainable aviation fuel</u>	<u>Amount of credit under</u>
39 <u>tax credit under subsection (www)</u>	<u>subdivision sixty-one</u>
40	<u>of section two hundred ten-B</u>

41 § 6. Section 606 of the tax law is amended by adding a new subsection
42 (www) to read as follows:

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

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

52 § 7. Section 75-0103 of the environmental conservation law is amended
53 by adding a new subdivision 18 to read as follows:

54 18. In its updated plan created pursuant to subdivision fifteen of
55 this section next occurring after the effective date of this subdivi-
56 sion, the council shall incorporate the effects of the increased

1 production and use in the state of sustainable aviation fuels, as
2 defined by section 5-129 of the energy law, and the impact that the
3 sustainable aviation fuel credit under section fifty of the tax law has
4 had on such production and use.

5 § 8. This act shall take effect immediately and shall apply to tax
6 years beginning on or after January 1, 2027, and before January 1, 2033,
7 and shall expire and be deemed repealed January 1, 2034.