

The National Agricultural  
Law Center



University of Arkansas • Division of Agriculture

**An Agricultural Law Research Project**

**Biofuels Statutory Citations**

**State of New York**

[www.NationalAgLawCenter.org](http://www.NationalAgLawCenter.org)



## Biofuels Statutory Citations

### STATE OF NEW YORK

*This compilation of state statutory citations focuses predominantly on biofuels laws in effect January 1, 1970 through December 31, 2013. It is intended to serve as a researcher-friendly inventory of state laws by providing the formal title of relevant legislation, the standard legal citation for each statute, the applicability of the statute (ethanol, biodiesel, or both), and a brief description of the law. Some statutes and regulations listed do not specifically relate to biofuels, but are included because of their complementary relationship to the evolution of biofuels law in the state. These statutes are placed in reverse chronological order using the date of the most recent amendment to the statute. Many biofuels laws were enacted as amendments to previously passed laws.*

<b>Title</b>	<b>Citation</b>	<b>Applicability</b>	<b>Description</b>
Credits against tax (2014)	<a href="#">N.Y. TAX LAW § 606 (JJ) &amp; (MM)</a>	Both	Provides that if the biofuel production credit is in excess of the taxes due then excess is credited or refunded to the taxpayer, but no interest will be paid. Expires Jan. 1, 2020. Also provides for the clean heating fuel tax credit for those that purchase biodiesel to heat residential properties. It is calculated at \$.01 per % of biodiesel in the heating in oil, but cannot exceed \$.20/gallon. If the credit exceeds the taxes due then the excess is credited or refunded to the tax payer. Expires Jan. 1, 2017.
Computation of tax (2014)	<a href="#">N.Y. TAX LAW § 210 (1) &amp; (38 TO 39)</a>	Both	Provides that the biofuel production credit and the clean heating fuel credit cannot reduce the overall taxes due below the higher of either the minimum taxable base or the fixed dollar minimum.

Biofuel production credit (2014)	<a href="#">N.Y. TAX LAW § 28</a>	Both	Credit is \$.15/gallon of biofuel produced after the first 40,000 gallons. Credit is capped at \$2.5 million/taxpayer/tax year for four years per plant. Expires Jan. 1, 2020.
Prepayment of sales tax on motor fuel and diesel motor fuel (2013)	<a href="#">N.Y. TAX LAW § 1102</a>	Both	E85 and qualified biodiesel are exempt from the prepayment of the fuel tax. Expires Sept. 1, 2016.
Exemptions (2013)	<a href="#">N.Y. TAX LAW § 301-B (6 TO 7)</a>	Both	Provides an exemption from the monthly state petroleum business tax for those that deliver E85 to stations for direct consumer distribution. A similar exemption of 20% is available for the sale of B20 for consumer use. Expires Sept. 1, 2016.
Reimbursements (2013)	<a href="#">N.Y. TAX LAW § 301-C</a>	Both	Provides a reimbursement for the monthly state petroleum business tax for stations that distribute E85 directly to consumers and have absorbed the tax burden. A similar reimbursement of 20% is available for the sale of B20 for consumer use. Expires Sept. 1, 2016.
Imposition of excise tax on diesel motor fuel (2013)	<a href="#">N.Y. TAX LAW § 282-A</a>	Biodiesel	Provides an exemption from the diesel fuel excise tax for qualified biodiesel when sold directly to a registered distributor.
Definitions (2013)	<a href="#">N.Y. TAX LAW § 282</a>	Both	Defines E85 and B20.
Biofuel production credit (2012)	<a href="#">N.Y. TAX LAW § 187-C</a>	Both	Allows for the biofuel production tax credit and outlines the rules for collecting the credit.

Refunds (2011)	<a href="#">N.Y. TAX LAW § 289-C (1-A) (D)</a>	Both	Provides a fuel tax exemption or refund for E85 ethanol stored to be resold directly to consumers. Provides a 20% fuel tax exemption or refund on B20 when the retailer does not pass on more than 80% of the taxes. Expires Sept. 1, 2016.
State Energy Plan (2011)	<a href="#">N.Y. ENERGY LAW § 6-104</a>	Both	Requires the board to include a forecast of at least ten years on ethanol and other biofuels demand within the state energy plan.
Dealer's right to deal with suppliers other than their distributors (2008)	<a href="#">N.Y. GEN. BUS. LAW § 199-J</a>	Both	Allow dealers to buy alternative fuels (E85 or biodiesel) from suppliers other than their franchise distributor if the franchise does not provide alternative fuels. Provides for a fine up to \$500 if a distributor wrongfully compels a retailer to purchase fuel supplies from them.
Clean-fueled buses projects (2002)	<a href="#">N.Y. ENVTL. CONSERV. LAW § 56-0605</a>	Both	Allows the state to provide funding for governmental entities (city, school, agency, etc.) to purchase clean-fueled buses, including those that run on biodiesel or ethanol.
Industrial alcohol manufacturers' permit (2002)	<a href="#">N.Y. ALCO. BEV. CONT. LAW § 91-A</a>	Ethanol	Allows the state to issue permits to manufacture ethanol but no permit fee is required if it is made solely from biomass feedstock.
Centrally fueled fleet program (1999)	<a href="#">N.Y. ENVTL. CONSERV. LAW § 19-0319</a>	Both	Sets forth a timeline for the state to phase-in clean-fueled vehicles into the state fleet.
State clean-fueled vehicle program (1996)	<a href="#">N.Y. EXEC. LAW § 201-A</a>	Ethanol	Establishes a program for the state to purchase clean-fueled vehicles for their fleets, including those that run on ethanol.

State clean-fueled vehicles projects (1996)	<a href="#"><u>N.Y. ENVTL. CONSERV. LAW § 56-0603</u></a>	Ethanol	Allows the state to develop a program to acquire clean-fueled fleet vehicles, including those that run on ethanol, as well as the necessary infrastructure for those fueling needs.
Motor fuel standards and labeling; certain rating of diesel fuel; alcohol content (1990)	<a href="#"><u>N.Y. AGRIC. &amp; MKTS. LAW § 192-C</u></a>	Ethanol	Bans the sale or transfer of gasoline that does not meet certain quality specifications and labeling requirements, also applies to ethanol fuel.