



States' Biofuels Statutes

STATE OF NEW YORK

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Current through the 2013 Legislative Session of the New York General Assembly.

§ 282. Definitions

As used in this article,

1. a. With respect to motor fuel, “distributor” means any person, firm, association or corporation, who or which imports or causes to be imported into the state, for use, distribution, storage or sale within the state, any motor fuel; and also any person, firm, association or corporation who or which produces, refines, manufactures or compounds motor fuel within the state.

b. With respect to Diesel motor fuel, “distributor” means any person, firm, association or corporation (i) who or which imports or causes to be imported into the state, for use, distribution, storage or sale within the state, any Diesel motor fuel; (ii) who or which produces, refines, manufactures or compounds Diesel motor fuel within the state; (iii) who or which makes a sale or use of Diesel motor fuel in this state other than: (A) a retail sale not in bulk or (B) the self-use of Diesel motor fuel which has been the subject of a retail sale to such person; (iv) who or which is registered by the department as a distributor of kero-jet fuel pursuant to the provisions of subdivision two of section two hundred eighty-two-a of this article. For the purposes of this article when used with respect to Diesel motor fuel, a “retail sale not in bulk” means the making or offering to make any sale of Diesel motor fuel to a consumer of such fuel which is delivered directly into a motor vehicle for use in the operation of such vehicle. A “retail sale in bulk” means the making or offering to make any sale of Diesel motor fuel to a consumer which is other than a “retail sale not in bulk”. Motor fuel or Diesel motor fuel brought into the state in the ordinary fuel tank connecting with the engine of a motor vehicle, aeroplane, motor boat or other conveyance propelled by the use of such motor fuel or Diesel motor fuel, and to be used only in the operation thereof, shall not be deemed imported within the meaning of this article, if not removed from such tank except as used in the propulsion of such engine.

2. “Motor fuel” means gasoline, benzol, reformulated blend stock for oxygenate blending, conventional blend stock for oxygenate blending, E85, fuel grade ethanol that meets the ASTM International active standards specifications D4806 or D4814 or other product which is suitable for use in operation of a motor vehicle engine.

3. "Motor vehicle" means any vehicle propelled by any power other than muscular, except boats, road building machinery, power shovels, tractor cranes, tractors used exclusively for agricultural purposes and such vehicles as are run only on rails or tracks.
4. "Purchaser" shall include, in addition to its usual meaning, the distributor in the case of transfer of motor fuel by a distributor from his, their or its stock, into a motor vehicle, or into a container from which motor fuel is supplied by the distributor to a motor vehicle or vehicles of the distributor or of others.
5. "Sale" shall include, in addition to its meaning under article twenty-eight of this chapter, the transfer of fuel by a distributor into a motor vehicle or into a receptacle from which fuel is supplied by him or it to his or its own or other motor vehicles.
6. "Filling station" shall include any place, location or station where motor fuel, highway Diesel motor fuel or water-white kerosene (exclusively for heating purposes in containers of no more than twenty gallons), is offered for sale at retail.
7. "Owner" shall include any person offering motor fuel for sale at retail.
8. "Person" includes an individual, copartnership, limited liability company, society, association, corporation, joint stock company, and any combination of individuals and also an executor, administrator, receiver, trustee or other fiduciary.
9. "Omnibus carrier" shall mean every person engaged in operating an omnibus line subject to the supervision of the state department of public service under article three-a of the public service law,¹ including every person operating omnibuses used for the transportation of school children under a contract made pursuant to the provisions of the education law.
10. "Taxicab licensee" shall mean every corporation, company, association, partnership and person engaged in operating a taxicab, as defined in section one hundred forty-eight-a of the vehicle and traffic law, and licensed by local authorities as defined in section one hundred twenty-two of such law to operate at a fixed rate of fare.
11. "Nonpublic school operator" shall mean any nonpublic elementary or secondary school which owns or leases and operates any vehicle solely and exclusively for its purposes.
12. "Transporter" means any person who or which has the use or control, or the right to the use or control of any means of transportation used in transporting motor fuel including a barge, truck or pipeline. "Importing transporter" means any transporter who or which transports motor fuel in the state where such motor fuel is being imported into the state for use, distribution, storage or sale in the state. "Exporting transporter" means any transporter who or which transports motor fuel in this state where such motor fuel is being exported from a point in this state to without this state.
13. "Terminal" means a motor fuel or Diesel motor fuel storage facility with a storage capacity of fifty thousand gallons or more excluding such facility at which motor fuel or Diesel motor fuel is stored

solely for its retail sale at such facility. “Terminal operator” means any person who or which has the use of or control over, or the right to so use or control, a terminal.

14. “Diesel motor fuel” shall mean No. 1 Diesel fuel, No. 2 Diesel fuel, biodiesel, kerosene, fuel oil or other middle distillate and also motor fuel suitable for use in the operation of an engine of the diesel type, excluding, however, any product specifically designated “No. 4 Diesel fuel” and not suitable as a fuel used in the operation of a motor vehicle engine.

15. Repealed by L.2011, c. 61, pt. K, § 1-a, eff. Sept. 1, 2011.

16. “Non-highway Diesel motor fuel” means any Diesel motor fuel that is designated for use other than on a public highway (except for the use of the public highway by farmers to reach adjacent lands), and is dyed Diesel motor fuel as defined in subdivision eighteen-a of this section.

16-a. “Highway Diesel motor fuel” means any Diesel motor fuel which is not non-highway Diesel motor fuel.

17. “Fixed base operator” means any person, firm, association or corporation, who or which engages in the sale of kero-jet fuel or aviation gasoline, or both, for airplanes from a fixed and permanent place at an airport within the state.

18. “Indian nation or tribe” means one of the following New York state Indian nations or tribes: Cayuga Nation, Oneida Nation of New York, Onondaga Nation, Poospatuck or Unkechauge Nation, Saint Regis Mohawk Tribe, Seneca Nation of Indians, Shinnecock Indian Nation, Tonawanda Band of Seneca and Tuscarora Nation.

18-a. “Dyed Diesel motor fuel” means Diesel motor fuel which has been dyed in accordance with and for the purpose of complying with the provisions of 26 USC § 4082(a) and the regulations thereunder, as may be amended from time to time.

19. “Qualified Indian” means a person duly enrolled on the tribal rolls of one of the Indian nations or tribes. In the case of the Cayuga Indian Nation of New York, such term shall include enrolled members of such nation when such enrolled members purchase motor fuel on any Seneca reservation.

20. “Qualified reservation” means (a) lands held by an Indian nation or tribe that is located within the reservation of that nation or tribe in the state;

(b) lands within the state over which an Indian nation or tribe exercises governmental power and that are either (i) held by the Indian nation or tribe subject to restrictions by the United States against alienation, or (ii) held in trust by the United States for the benefit of such Indian nation or tribe;

(c) lands held by the Shinnecock Tribe or the Poospatuck (Unkechauge) Nation within their respective reservations; or

(d) any land that falls within paragraph (a) or (b) of this subdivision, and which may be sold and replaced with other land in accordance with an Indian nation’s or tribe’s land claims settlement

agreement with the state of New York, shall nevertheless be deemed to be subject to restriction by the United States against alienation.

21. “Reservation motor fuel seller” means a seller of motor fuel or Diesel motor fuel which is an Indian nation or tribe, one or more members of such tribe, or an entity wholly owned by either or both, which sells motor fuel within the boundaries of a qualified reservation.

22. [Deemed repealed Sept. 1, 2016, pursuant to L.2006, c. 109, pt. W-1, § 19.] “E85” means a fuel blend consisting of ethanol and motor fuel, which meets the ASTM International active standard D5798 for fuel ethanol.

23. [Deemed repealed Sept. 1, 2016, pursuant to L.2006, c. 109, pt. W-1, § 19.] “B20” means a mixture consisting by volume of twenty percent biodiesel and the remainder of which is diesel motor fuel. “Biodiesel” shall mean either “qualified biodiesel” or “unqualified biodiesel.” “Qualified biodiesel” means a diesel motor fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) and that meets the ASTM International active standard D6751 for biodiesel fuel. “Unqualified biodiesel” means a diesel motor fuel substitute produced from nonpetroleum renewable resources that does not meet the ASTM International active standard D6751 for biodiesel fuel.

24. [Deemed repealed Sept. 1, 2016, pursuant to L.2006, c. 109, pt. W-1, § 19.] “CNG” means fuel comprised primarily of methane, stored in either a gaseous or liquid state, suitable for use and consumption in the engine of a motor vehicle.

25. [Deemed repealed Sept. 1, 2016, pursuant to L.2006, c. 109, pt. W-1, § 19.] “Hydrogen” means fuel comprised primarily of molecular hydrogen, stored in either a gaseous or liquid state, suitable for use and consumption in the engine of a motor vehicle.

26. “Public highway” means public highway as defined in subdivision six of section five hundred one of this chapter.

Credits: (Added L.1929, c. 364, § 1. Amended L.1930, c. 163, § 1; L.1932, c. 330, § 1; L.1935, c. 48, § 1; L.1937, c. 509, § 1; L.1959, c. 641, § 1; L.1959, c. 711, § 1; L.1961, c. 169, § 1; L.1974, c. 756, § 1; L.1985, c. 44, § 2; L.1986, c. 276, § 1; L.1988, c. 261, §§ 68, 69; L.1989, c. 245, §§ 3, 5, 6; L.1993, c. 560, § 1; L.1994, c. 576, § 33; L.1995, c. 2, § 74; L.2005, c. 61, pt. K, § 3, eff. March 1, 2006; L.2006, c. 109, pt. W-1, § 1, eff. Sept. 1, 2006; L.2006, c. 302, § 1, eff. Dec. 1, 2006; L.2011, c. 61, pt. K, §§ 1 to 4, eff. Sept. 1, 2011; L.2011, c. 61, pt. L, § 1, eff. March 31, 2011; L.2012, c. 59, pt. E, § 1, eff. June 1, 2012; L.2013, c. 59, pt. W, § 1, eff. Aug. 1, 2013; L.2013, c. 174, § 17, eff. July 30, 2013.)