

STATE OF NEW YORK

7321

2023-2024 Regular Sessions

IN ASSEMBLY

May 17, 2023

Introduced by M. of A. ARDILA -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a tax on carbon-based fuels to mitigate greenhouse gas emissions causing anthropogenic climate change

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

1 Section 1. The tax law is amended by adding a new article 12-B to read

2 as follows:

3

ARTICLE 12-B

4

TAX ON CARBON-BASED FUELS

5

Section 289-g. Definitions.

6

289-h. Administration of emissions charges.

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289-i. Carbon dioxide emissions tax.

8

289-j. Carbon dioxide emissions fund.

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289-k. Regulations.

10 § 289-g. Definitions. For the purposes of this
11 article, the following
12 terms shall have the following meanings:
13 1. "Carbon-based fuel" means coal, natural
14 gas, renewable biomass,
15 petroleum products, and any other product that
16 contains carbon and emits
17 carbon dioxide, methane, nitrous oxide, or other
18 greenhouse gases when
19 combusted, that are used for fuel, heating,
20 cooling, or industrial proc-
21 esses, which processes shall include electricity
22 generation.
23 2. "Carbon-generated electricity" means electric
24 energy produced using
25 a carbon-based fuel that is generated or
26 transmitted by an electric
27 power facility.
28 3. "Carbon dioxide equivalent" means a unit of
29 measure denoting the
30 amount of emissions from a greenhouse gas,
31 expressed as the amount of
32 carbon dioxide by weight that produces the same
33 global warming impact.
34 4. "Carbon dioxide emissions tax" means a tax
35 imposed on each ton of
36 carbon dioxide equivalency.

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

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1 5. "Fuel distributor" means any person, firm,
2 association or corpo-
3 ration, that imports or causes to be imported into
4 the state, for use,
5 distribution, storage or sale within the state, any
6 carbon-based fuel as
7 defined in subdivision one of this section; and
8 also any person, firm,

5 association or corporation that produces,
6 refines, manufactures or
7 compounds carbon-based fuel within the state.

8 6. "Fund" means the carbon dioxide emissions fund
9 established by this
10 article.

11 7. "Motor vehicle fuel" means fuel for the
12 operation of a motor vehi-
13 cle.

14 8. "Utility" means any such gas corporation,
15 electric corporation, gas
16 and electric corporation, steam corporation,
17 municipality, or any entity

18 that, in any manner, sells or facilitates the
19 sale, furnishing or
20 provision of gas or electronic commodity to
21 residential customers;

22 provided, however, that the term shall not include
23 any municipality that

24 is exempt from regulation by the public service
25 commission pursuant to
26 paragraph g of subdivision five of section one
27 thousand five of the
28 public authorities law.

29 § 289-h. Administration of emissions charges. The
30 department of envi-

31 ronmental conservation shall administer the
32 schedules of carbon dioxide

33 emissions charges and the carbon dioxide emissions
34 fund, both estab-

35 lished pursuant to this article. Such tax shall be
36 imposed on each fuel

37 distributor and utility at a rate and schedule to
38 be determined by the

39 department of environmental conservation in
40 accordance with section two

41 hundred eighty-nine-i of this article for a carbon-
42 based fuel that is

43 either:

44 1. sold by a fuel distributor to consumers in
45 this state in the previ-

46 ous calendar year; or

47 2. used to produce carbon-generated electricity
48 that is supplied by a

30 utility to consumers in this state in the previous
calendar year.

31 § 289-i. Carbon dioxide emissions tax. 1. The
department and the

32 department of environmental conservation shall
establish a carbon diox-

33 ide emissions tax on the distribution or sale of
carbon-based fuels

34 which shall be no less than thirty-five dollars
per ton of carbon diox-

35 ide equivalency and shall increase by fifteen
dollars per ton of carbon

36 dioxide equivalency annually to a maximum of
one hundred eighty-five

37 dollars per ton of carbon dioxide equivalency.

38 2. In the fourth year of implementation, and
biannually thereafter,

39 the department of environmental conservation shall
publish a report for

40 the legislature and shall post the report on an
internet website acces-

41 sible to the public. Such report shall consider
whether any increases or

42 decreases in the carbon dioxide emissions tax
as authorized by this

43 section are recommended to account for inflation,
and to ensure progress

44 towards reaching emissions levels to mitigate
climate change in further-

45 ance of established state policy.

46 3. The department shall determine total taxable
emissions annually for

47 each distributor or utility using the carbon
dioxide equivalent for each

48 carbon-based fuel based on information that shall
be provided in an

49 annual report to the department by the distributor
or utility about the

50 amount of carbon-based fuel or carbon-generated
electricity sold to

51 consumers within the state during the
preceding calendar year. Such

52 annual report shall also include any information
required by the depart-

53 ment by rule or regulation.

54 4. The department and the department of
environmental conservation
55 shall be authorized to develop any rule or
regulation necessary to

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1 collect and administer the carbon dioxide emissions
tax authorized under
2 this article.

3 5. Notwithstanding any general or special law to
the contrary, the tax

4 authorized under this section shall not be
imposed on any carbon-based

5 fuel or source of carbon-based electricity if such
imposition is super-

6 seded by federal law or regulation.

7 § 289-j. Carbon dioxide emissions fund. 1. The
department of environ-

8 mental conservation shall establish the carbon
dioxide emissions fund,

9 and the department's office of climate change
shall serve as the fund's

10 administrator. The department of environmental
conservation shall depos-

11 it all proceeds collected in accordance with
section two hundred eight-

12 y-nine-i of this article into the fund. No
such proceeds shall fund

13 government operations of the state, other than to
pay for reasonable

14 administrative costs as provided under subdivision
two of this section.

15 2. The office of climate change shall return
sixty percent of all

16 carbon dioxide emissions charge proceeds to very
low to moderate income

17 residents of the state in the form of tax credits
in order to offset the

18 regressive nature of such fees. The amount of such
credit shall be based

19 on estimates and averages of expense and
consumption trends for very low

20 to moderate income residents determined by the
21 office of climate change
22 in conjunction with the department in
23 accordance with section two
24 hundred eighty-nine-k of this article. Such credit
25 shall be progressive-
26 ly issued to very low to moderate income
27 residents. Such income catego-
28 ries shall mean those with income below fifty
29 percent for very low
30 income residents, income between fifty and eighty
31 percent for low income
32 residents, and income between eighty-one and one
33 hundred fifteen percent
34 for moderate income residents, of the area median
35 income as determined
36 by the department of housing and urban development.
37 3. The office of climate change shall distribute
38 evenly the remaining
39 forty percent of proceeds of such fund in order
40 to support the transi-
41 tion to one hundred percent clean energy in the
42 state, to support mass
43 transit to reduce carbon emissions, and to improve
44 climate change adap-
45 tation. Such funds shall include but not be
46 limited to payments and
47 subsidies for renewable energy, energy conservation
48 and efficiency meas-
49 ures, improvements in infrastructure,
50 improvements in mass transit
51 capacity, agricultural adaptation measures,
52 protection of low-lying
53 areas including coastlines, and emergency
54 responses to extreme weather
55 events.
56 § 289-k. Regulations. 1. The department and
57 department of environ-
58 mental conservation shall promulgate such rules and
59 regulations as shall
60 be necessary to implement the provisions of this
61 article.
62 2. The department and the department of
63 environmental conservation

43 shall undertake all reasonable efforts to collect
charges authorized

44 pursuant to this article at the first point of
distribution or sale

45 within the state.

46 § 2. This act shall take effect on the ninetieth
day after it shall

47 have become a law. Effective immediately, the
addition, amendment and/or

48 repeal of any rule or regulation necessary for
the implementation of

49 this act on its effective date are authorized to be
made and completed

50 on or before such effective date.