



NEW YORK STATE SENATOR

David Carlucci

Senator Carlucci Announces Senate Passage of Legislation Requiring Gas Stations to Have Backup Emergency Generators

DAVID CARLUCCI March 24, 2013

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New Measures will Require Certain Gas Stations to be Prewired and Have Generator Available on Site; Substantial Financial Incentives Offered to Help Minimize Cost

Senator Carlucci: “In the wake of Hurricane Sandy, we will need to act fast to get commuters moving and prevent our economy from grinding to a screeching halt.”

ALBANY, NY – In response to the underlying gas shortage and commuter crisis that occurred following Hurricane Sandy, Senator David Carlucci (D-Rockland/Westchester) today announced the passage of legislation (S.2680D) that will require key gas stations within the downstate New York metropolitan region to be prewired with a transfer switch and have a generator available, either directly owned or through a lease or rental agreement. The downstate region consists of New York City, Long Island, Westchester and Rockland Counties.

The legislation now heads to the Assembly for an up-or-down vote and then to the Governor’s desk.

Back in December 2012, Senator Carlucci introduced legislation, modeled off of similar existing laws in hurricane-prone states such as Florida, in order to help New York State deal with the new reoccurring threat of natural disasters in the aftermath of Hurricane Sandy. Shortly thereafter, Governor Cuomo announced the inclusion of this program in his 30-day amendments into his Executive Budget.

“In the direct aftermath of Hurricane Sandy, we found out how vulnerable and isolated we can become when there is no plan in place to deal with the repercussions of a gas crisis,” said Senator Carlucci. “Recognizing the need to act quickly when the power goes out, this legislation will ensure that we have the tools at our disposal to keep the gas flowing, our roadways from becoming a hazard, and keep our economy from grinding to a screeching halt.”

The legislation incorporates a combination of financial incentives, specific rewiring requirements, generator requirements, and financial penalties in the event of noncompliance. All requirements of the legislation are contingent on the availability of federal mitigation funds or other approved resources. In other words, if there is no money available to offer, these requirements do not apply.

Financial Incentives

Direct cash grants, to be paid for with federal mitigation funds, shall be available through a grant program developed by NYSERDA, as follows:

- Up to \$10,000 for rewiring expenses at any existing gas station that is subject to the requirements below
- Up to \$13,000 for rewiring expenses and to directly purchase a generator for any existing gas station subject to the requirements below
- To the extent funds are available, up to \$10,000 for rewiring and/or generator purchase for stations that are newly constructed or substantially renovated after April 1, 2014
- To the extent funds are available, grants will be available for any gas station that is not subject to any of these requirements but which wishes to participate in the program

NYSERDA is also required to set up a program to establish a pool of generators for deployment to gas stations in an emergency. NYSERDA will either directly purchase or enter into rental or lease agreements for generators to be deployed to gas stations in an emergency. Gas stations participating in this program will only be required to pay the actual cost of generator rental, deployment and installation. If there are not enough generators available, priority will be given to those stations that are deemed most essential to public safety and well-being.

Prewiring Requirement

- Each existing gas station that's within ½ mile of an exit on a controlled access highway or evacuation route must be rewired by April 1, 2014
- Each new gas station beginning operation before April 1, 2014 must be rewired by April 1, 2015

- Existing stations that are within ½ mile of a newly designated evacuation route would have to be prewired within one year of such designation
- 30% of retail outlets that are part of a chain (exclusive of any captured by the above) would be required to be prewired by April 1, 2015
- Each gas station that is either newly built or substantially renovated after April 1, 2014 must be prewired
- Gas stations that sell less than 75,000 gallons per month on average of fuel are exempt

Generator Requirement

Upon declaration of an emergency or fuel supply emergency issued by the governor, a county executive in the downstate region or the mayor of NYC, gas stations shall deploy and install an alternate generated power source as follows:

- If there is no power at the time an emergency is declared, within 24 hours of such declaration. If power goes out after the declaration of emergency, within 24 hours after the power goes out
- For stations that are part of a chain, within 48 hours of the declaration of an emergency if there is no power, or within 48 hours of losing power after such declaration
- Each gas station that is subject to the rewiring requirement shall have in place, by the time such rewiring is done, a plan to deploy and install a generator. Such plan shall include the direct purchase of a generator, a private rental agreement, or participation in the NYSERDA generator pool program
- By April 1, 2014, and every two years thereafter, gas stations must provide the state with documentation that demonstrates they're in compliance with these requirements

Penalties

Any gas station that violates any of these provisions shall be liable for a civil penalty up to \$1,500 per day for every day of such violation. Mitigating factors to be considered when assessing penalties include the availability of gasoline at the retail outlet, provided that the retailer did not refuse delivery; and the extent to which the retailer's action or inaction contributed to the violation.

A retailer is presumed not to be in violation if a generator is unable to be deployed because of uncontrollable circumstances, such as road closures or travel restrictions; if the gas station is made unsafe or unable to operate because of an act of god, fires, floods, explosions or the safety of the personnel needed to operate the station is threatened; or if a generator through the NYSERDA pool program is unavailable due to prioritization.

Senator Carlucci's initial legislation would require certain wholesales, terminal facilities, and gas stations to have a backup generator source, including those near major interstates on state or federal evacuation routes so that residents who evacuate their homes would have the ability to do so. His bill also added financial incentives that would be provided to make each purchase more affordable.

To view Senator Carlucci's speech this evening on the adopted legislation on the Senate floor, please visit: <http://www.youtube.com/watch?v=oUGB4Lho0nQ&feature=youtu.be>.

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