

2020 -- S 2108

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO HEALTH AND SAFETY -- ECONOMIC AND CLIMATE RESILIENCE ACT
OF 2020

Introduced By: Senators Sosnowski, McCaffrey, Lynch Prata, Conley, and McKenney

Date Introduced: January 22, 2020

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative Findings. The General Assembly finds and declares that:

2 (1) In order to promote the general welfare of the people of the state, Rhode Island must
3 strengthen its economy and make it more resilient over the long term in order to avoid the
4 economic consequences of climate change, which will require initiatives that encourage the
5 development and use of innovative policies, technologies and practices;

6 (2) Rhode Island is committed to the principles of the Paris Climate Agreement and to the
7 findings of the latest climate science and acknowledges that immediate actions to reduce
8 greenhouse gas emissions, such as those set forth in this legislation, are essential to protect our
9 community, our environment, and our economy;

10 (3) The General Assembly in 2014 enacted the Resilient Rhode Island Act, which set
11 goals for reducing "greenhouse gas emissions" in Rhode Island, and established affirmative
12 obligations to meet these statutory goals;

13 (4) Low-income, people of color, handicapped and elderly residents of Rhode Island
14 suffer most from climate-related disasters;

15 (5) Climate change increases risks to public health, including from health impacts from
16 extreme heat events, storms and floods, decreased air quality, and illnesses transmitted from food,
17 water, and disease carriers, as reported by the Rhode Island department of health;

18 (6) Climate change increases public safety risks and threats to our private property and

1 public infrastructure, including risks associated with storms, floods, and sea level rise, and these
2 risks have been recognized by several branches of the Rhode Island government as warranting
3 specific attention;

4 (7) Climate change has severe economic consequences, including catastrophic weather
5 events such as Hurricane Sandy or coastal and river flooding that cause widespread damage to
6 communities and businesses and changes to marine ecosystems that cause severe reductions in
7 winter flounder, lobster, and other marine populations, and failing to address these risks will only
8 lead to more severe and persistent impacts upon our local economy;

9 (8) Rhode Island spends over three billion dollars (\$3,000,000,000) annually on fossil
10 fuels whereas carbon pricing mechanisms have been shown to be effective in creating jobs and
11 stimulating the local economy;

12 (9) Natural gas, gasoline, diesel and heating oil prices can be highly volatile and create
13 uncertainty and risk for Rhode Island's economy. Reducing energy waste and demand for fossil
14 fuels produced out-of-state can stabilize Rhode Island's economy;

15 (10) Carbon pricing is a cost-effective and efficient market-based means to achieve
16 significant carbon emissions reductions;

17 (11) The clean energy sector has proven to be one of the fastest growing segments of
18 Rhode Island's economy, currently providing over fifteen thousand (15,000) jobs and growing at
19 a rate much higher than the overall state economy; increased investment will provide even more
20 jobs in addition to a higher quality of life;

21 (12) Climate change poses substantial risks to Rhode Island's ecology and natural
22 resources, and pursuant to Article 1, § 17 of the Rhode Island Constitution, it is the responsibility
23 of the state to secure the right of the people "to the use and enjoyment of the natural resources of
24 the state with due regard for the preservation of their values;" and

25 (13) In the absence of international or federal action, states cooperating regionally are
26 effective at reducing emissions and spurring renewable energy initiatives, as demonstrated by the
27 success of the Regional Greenhouse Gas Initiative (RGGI), which has reduced overall emissions
28 and strengthened the economies of participating states.

29 SECTION 2. Legislative intent. It is the intent of the general assembly to:

30 (1) Establish a separate and restricted receipt Rhode Island Economic and Climate
31 Resilience Climate Fund for creating employment and helping workers transition to low carbon
32 industries, improving energy efficiency, advancing adoption of clean energy technology,
33 establishing programs to safeguard low-income residents, and protecting businesses that are high
34 energy users;

1 (2) Price carbon as an incentive to reduce carbon (greenhouse gas) emissions from use of
2 carbon based fuels by residents and businesses in Rhode Island;

3 (3) Provide access to energy efficiency, energy conservation, and renewable energy
4 programs for low-income families and small businesses;

5 (4) Reduce public health, public safety, economic, and natural resource impairment risks
6 associated with climate change;

7 (5) Meet or exceed the state emissions goals for 2035 as set by the Resilient Rhode Island
8 Act of 2014; and

9 (6) Promote regional cooperation to reduce emissions, build renewable energy and energy
10 efficiency programs, and strengthen the economy.

11 SECTION 3. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
12 amended by adding thereto the following chapter:

13 CHAPTER 82.1

14 ECONOMIC AND CLIMATE RESILIENCE ACT OF 2020

15 **23-82.1-1. Short title.**

16 This chapter shall be known and may be cited as the "Economic and Climate Resilience
17 Act of 2020".

18 **23-82.1-2. Definitions.**

19 As used in this chapter, the following words and terms shall have the following meanings
20 unless the context shall clearly indicate another or different meaning or intent:

21 (1) "Carbon dioxide equivalent" ("CO₂e") means a unit of measure used to compare the
22 emissions from various greenhouse gases based upon their global warming potential.

23 (2) "Carbon price" means the fee imposed by this chapter.

24 (3) "Climate resilience" means the ability of a social, ecological, or socio-ecological
25 system and its components to anticipate, reduce, accommodate, or recover from the effects of a
26 hazardous event or trend in a timely and efficient manner. Such economic and social stability in
27 the face of climate-related disasters can be achieved through preparation, soft and hard
28 infrastructure improvements, emergency warning systems, and recovery resources, as well as
29 through quickly decarbonizing the economy to help lead other jurisdictions to do so, to avoid the
30 worst impacts which come with the accumulation of greenhouse gases in the atmosphere and
31 oceans.

32 (4) "Commission" means the public utilities commission, set forth in § 39-1-3(a).

33 (5) "Electricity fuel mix" means the mix of fuels for any one-year period used to create
34 electricity by generators within the control area of ISO-NE.

1 (6) "Employer" means a person, firm, corporation, partnership, association or public
2 body, whether for-profit or not-for-profit, that is located in Rhode Island and employs Rhode
3 Island residents.

4 (7) "Economic and climate resilience fund" means the fund established under this
5 chapter.

6 (8) "Fossil fuel" means coal, oil, natural gas, propane, petroleum product, and biomass
7 that is not carbon neutral over its life cycle. Fossil fuels do not include renewable, carbon neutral
8 biomass or waste vegetable oil biodiesel.

9 (9) "Implementation date" means January 1 of the year following initial regional carbon
10 fee enactment.

11 (10) "Independent System Operator-New England" or "ISO-NE" means the regional
12 transmission organization for New England licensed by the federal energy regulatory commission
13 pursuant to the Federal Power Act (16 U.S.C.12).

14 (11) "Initial regional carbon fee enactment" means the enactment of a fee of at least five
15 dollars (\$5.00) per metric ton of carbon by the legislatures of at least three (3) states: Rhode
16 Island, Massachusetts, and one or more additional states in the Regional Greenhouse Gas
17 Initiative (RGGI).

18 (12) "Low-income residential property" means a dwelling unit owned or occupied by a
19 household eligible to receive benefits under the low-income energy assistance program
20 (LIHEAP) as set forth in § 39-1-27.12; in instances where a premises contains multiple dwelling
21 units, the entire premises shall be considered a low-income residential property if fifty percent
22 (50%) or more of the dwelling units are occupied by LIHEAP-eligible households.

23 (13) "Person" means any individual, partnership, corporation, company, society, or
24 association, whether created for-profit or nonprofit purposes.

25 (14) "Petroleum product" means all petroleum derivatives, whether in bond or not, which
26 are commonly burned to produce heat, electricity, or motion or which are commonly processed to
27 produce synthetic gas for burning, including propane, gasoline, unleaded gasoline, kerosene,
28 heating oil, diesel fuel, and number 4, number 5 and residual oil for utility and non-utility uses.
29 All aircraft fuels (including kerosene based jet fuel) used by commercial airplanes in Rhode
30 Island and all aircraft fuels brought into Quonset and T.F. Green airports are exempt from the fee.
31 Fuels brought into Rhode Island in airplane fuel tanks are exempt.

32 (15) "Resident" means a person eighteen (18) years of age or older who is a resident of
33 Rhode Island. All persons registered to vote in Rhode Island or all persons eighteen (18) years of
34 age or older who hold a valid Rhode Island driver's license or photo ID shall be presumptively

1 considered residents for the purposes of this chapter. Persons who do not meet the requirements
2 for presumptive eligibility may establish eligibility by presenting other acceptable documentation.

3 (16) "Small business property" means the premises, whether owned or leased, of any
4 employer, other than a public body, that is a small business as defined by the United States Small
5 Business Administration (SBA).

6 **23-82.1-3. Carbon pricing.**

7 (a) A fee shall be collected on all non-exempt fossil fuels within the state for purposes of
8 distribution or use within the state, at the rate specified in subsection (b) of this section, in the
9 manner specified in subsections (e) through (l) of this section.

10 (b) Commencing on the implementation date, a fee shall be charged at a rate of fifteen
11 dollars (\$15.00) per metric ton of CO₂e that would be released by burning the fuel sold. In each
12 subsequent fiscal year, the rate shall be the rate of the previous fiscal year plus five dollars
13 (\$5.00), until it reaches a rate of fifty dollars (\$50.00) per ton. After the rate reaches fifty dollars
14 (\$50.00) per ton, in each subsequent fiscal year the rate will increase in accordance with inflation,
15 as measured by Rhode Island's cost-of-living-adjustments calculated using the United States
16 Bureau of Labor Statistics Consumer Price Index or, if that index is not available, another index
17 adopted by the director of revenue.

18 (c) The director of revenue shall calculate and publish the rate in current dollars for each
19 year, by December 1.

20 (d) In sales where greenhouse gas emissions from the fossil fuels are to be permanently
21 sequestered and not released into the atmosphere, charges on the fossil fuels shall be reduced by
22 the director of revenue in proportion to the amount of CO₂e that is to be sequestered. The office
23 of energy resources shall ensure that in such cases, the emissions are actually sequestered and not
24 released into the atmosphere.

25 (e) The fee shall be collected on all petroleum products at their first point of sale within
26 the state for consumption or distribution within the state.

27 (f) All suppliers of electricity, including all electric distribution companies operating in
28 the state and all competitive suppliers of electricity to end users, shall pay the fee on behalf of all
29 of their electricity customers on the basis of each kilowatt hour of electricity used by each
30 distribution customer. The per kilowatt hour fee to be paid by the supplier of electricity will be
31 calculated in the following manner:

32 (1) The fee shall be calculated on an annual basis, based on the electricity fuel mix as
33 defined above.

34 (2) The CO₂e of every kilowatt hour of electricity shall be determined by taking the

1 weighted average of the natural gas, coal, and oil portions of the fuel mix and multiplying each of
2 those portions separately by the amount of CO₂e emissions created per kilowatt hour of electricity
3 produced by each such fuel, as those carbon intensity levels are from time to time determined by
4 the United States Energy Information Administration (EIA).

5 (3) The supplier of electricity shall deduct from the fee calculated by subsections (f)(1)
6 and (f)(2) of this section an amount equal to the amount it paid for the same year on account of
7 regional greenhouse gas initiative (RGGI) clearing auctions; provided, however, that the amount
8 so deducted may be no greater than the total amount of the fee as calculated in subsections (f)(1)
9 and (f)(2) of this section. The electricity supplier shall also deduct from the fee calculated an
10 amount equal to the amount it may have paid for NE-GIS certificates as defined in § 39-26-2.

11 (g) On April 1 of each year, each supplier of electricity shall file with the commission the
12 result of its proposed calculation for the year beginning the following July 1. The filing will
13 include sufficient supporting data to enable the commission to determine whether the calculation
14 by the supplier of electricity was made fully in accordance with subsection (f) of this section.
15 Upon receipt of the calculation by the supplier of electricity, the commission shall open a docket.
16 The sole purpose of the docket shall be for the commission to determine whether the calculation
17 by the supplier of electricity was made fully in accordance with subsection (f) of this section. If
18 the commission determines that the calculation by the supplier of electricity was made fully in
19 accordance with subsection (f) of this section, the commission shall, no later than May 15 of the
20 same year, issue its order approving the calculation. If the commission determines that the
21 calculation by the supplier of electricity did not fully comply with subsection (f) of this section,
22 the commission shall issue an order stating clearly the errors that were made by the supplier of
23 electricity. In that event, the supplier of electricity shall have twenty-one (21) days to make a
24 compliance filing with the commission, correcting the errors identified in the commission's order.

25 (h) Any entity which generates more than twenty-five thousand kilowatt hours (25,000
26 kwh) of electricity for on-site use using any combination of one or more fossil fuels shall be
27 obligated to pay the carbon price, which shall be calculated by multiplying the quantity of each
28 separate fossil fuel combusted to produce electricity by the CO₂e emissions of each separate fuel
29 so combusted. Within one year following the date of enactment of this chapter, the director of
30 revenue shall issue rules, pursuant to chapter 35 of title 42, for the regular and efficient
31 calculation, assessment, and collection of these carbon price amounts. Any fee already paid on
32 said fuel pursuant to this section shall be deducted from the fee that would otherwise be due
33 under this subsection.

34 (i) The local distribution company for natural gas shall pay the fee on behalf of all of its

1 distribution customers. The fee shall be calculated by multiplying the number of cubic feet of
2 natural gas used by each customer by the amount of CO₂e released by burning one cubic foot of
3 natural gas, as that value is from time to time determined by the United States Energy
4 Information Administration (EIA).

5 (j) The office of energy resources shall determine the amount of CO₂e released in the
6 form of escaped methane due to the extraction, transport, or distribution of natural gas before the
7 point of consumption in Rhode Island, and shall add an additional charge to the carbon price for
8 all natural gas or natural-gas-based electricity, based on the rate specified in subsection (b) of this
9 section. This fee shall be published no later than December 10 of each year.

10 (k) In the event that a separate fee on the greenhouse gas content of transportation fuels is
11 established, this fee shall be deducted from the fee imposed by the economic and climate
12 resilience act; provided, however, that the amount so deducted may be no greater than the total
13 amount of the fee as calculated in subsections (f)(1) and (f)(2) of this section.

14 (l) Government agencies whose primary purpose is to provide public transportation by
15 bus, van, rail, ferry or other means that reduce the amount of driving by private motor vehicles
16 shall be exempt from the fees set forth in this section for the portion of their business that
17 provides public transport.

18 (m) The fee established by this chapter shall be reduced by the amount of any fee or
19 payment due under any federal law or under this section that sets a carbon price on the same
20 fossil fuels for the same year as described in this chapter; provided, however, that such reduction
21 shall not be in an amount of less than zero.

22 **23-82.1-4. Economic and climate resilience fund.**

23 (a) There is hereby established a restricted receipt account in the general fund to be
24 known as the economic and climate resilience fund. All fees collected under this chapter shall be
25 deposited in the economic and climate resilience fund.

26 (b) Unexpended balances and any earnings thereon shall not revert to the general fund but
27 shall remain solely in the economic and climate resilience fund. The economic and climate
28 resilience fund shall be used solely to carry out the provisions of this chapter.

29 (c) Proceeds from the economic and climate resilience fund may only be used for the
30 purposes described in § 23-82.1-5. Proceeds shall be available for the purposes described in § 23-
31 82.1-5 without appropriation.

32 (d) An independent economic and climate resilience fund oversight board shall be
33 created, with members chosen by the governor with the advice and consent of the senate, to
34 include nine (9) members with one member representing each of the following interests: small

1 business, large business, labor, environmental justice, scientific community, low-income,
2 historically marginalized groups, community development organizations, and the transportation
3 sector. Members shall have staggered three (3) year terms. The director of the Rhode Island
4 infrastructure bank and the commissioner of the office of energy resources shall serve as
5 permanent ex officio non-voting members. The board shall elect a chair from its membership.
6 The oversight board shall convene quarterly to carry out roles pursuant to the provisions of
7 subsection (d)(1) of this section with the support of the office of energy resources.

8 (1) The economic and climate resilience fund oversight board and the office of energy
9 resources (OER) shall prepare and deliver an annual report to the house committee on
10 environment and natural resources, the senate committee on environment and agriculture, the
11 house committee on finance, and the senate committee on finance on or before May 1, one year
12 after the commencement of the fee, and annually on or before May 1 thereafter, which will:

13 (i) Recommend changes to the fee in order to account for greenhouse gas emissions
14 associated with the full lifecycle of all fossil fuels, including emissions prior and subsequent to
15 combustion associated with extraction, transportation, or disposal in order to help the state meet
16 its greenhouse gas reductions targets;

17 (ii) Recommend changes to the logistics of dividend distribution as currently specified in
18 §§ 23-82.1-5(b) and (c) in order to more fully account for equity in the needs of residents and
19 consumers, especially low-income residents.

20 (2) In addition to the revenue generated by § 23-82.1-3, the board may:

21 (i) Accept and administer grants from both public and private sources for the carrying out
22 of any of its functions, which loans or grants shall not be expended for other than the purposes for
23 which provided; and

24 (ii) Apply for, accept and expend allocations, grants and bequests of funds for the
25 purpose of carrying out the responsibilities of the board.

26 **23-82.1-5. Economic and Climate Resilience Fund Uses.**

27 (a) The Rhode Island infrastructure bank, under the auspices of the economic and climate
28 resilience fund oversight board pursuant to § 23-82.1-4, shall use the funds from the economic
29 and climate resilience fund as follows:

30 (1) Twenty-eight percent (28%) shall go to support climate resilience, renewable energy,
31 energy efficiency, climate adaptation, and low carbon transition initiatives in Rhode Island:

32 (i) At least one-third (1/3) of funding from the twenty-eight percent (28%) of the
33 economic and climate resilience fund that will be distributed to resilience and renewable energy
34 programs shall be distributed to neighborhoods, municipalities, groups of municipalities, or

1 regional agencies representing neighborhoods or municipalities whose median incomes per
2 household are in the lowest third (1/3) of median incomes for all municipalities in the state.

3 (ii) For purposes of this subsection, to calculate the lowest third (1/3), the median income
4 of each municipality shall be weighted by the number of households in the municipality. When
5 possible, distribution shall prioritize assisting municipalities with existing climate action plans in
6 renewable energy and efficiency projects. A training session for municipal planners relating to
7 implementing resilience and renewable energy programs shall be a prerequisite for the
8 municipalities to receive funds.

9 (2) Thirty percent (30%) shall be used to provide direct dividends to employers in the
10 state, in the manner specified in subsections (b) and (d) of this section;

11 (3) Forty percent (40%) shall be used to provide direct dividends to residents in the state,
12 in the manner specified in subsections (b) and (c) of this section;

13 (4) Up to two percent (2%) shall be used to pay for administrative costs associated with
14 collecting the charges, administering the economic and climate resilience fund, and carrying out
15 other responsibilities assigned to the office of energy resources and department of revenue under
16 this chapter. Any unexpended revenue from this two percent (2%) shall be reallocated to climate
17 resilience and renewable energy programs, pursuant to § 23-82.1-5(a)(1). None of said proceeds
18 shall fund government operations or obligations other than to pay for reasonable administrative
19 costs in connection with the Economic and Climate Resilience Act of 2020 which should not be
20 higher than two percent (2%) of revenue collected. From the period commencing on the effective
21 date of this chapter through the implementation of the regulations necessary for the collection of
22 fees provided for under this chapter, the administrative allocation shall be the actual
23 administrative cost, and the amount of revenue directed to the climate resilience and renewable
24 energy program shall be reduced by the amount above two percent (2%) that is used for
25 administrative costs.

26 (b) The dividends specified above shall be implemented, at the discretion of the director
27 of revenue, through a refundable credit added to tax returns for residents and employers that file
28 tax returns. For residents and employers without tax filings, dividends will be granted in the form
29 of direct checks. The director of revenue shall make every reasonable effort to ensure that every
30 resident and employer, regardless of whether or not a particular resident or employer files tax
31 returns or actually owes taxes, including not-for-profit organizations and government entities,
32 receives a dividend. Dividends will be calculated based on the estimated increased total costs of
33 energy in Rhode Island and distributed at the beginning of each year. The first set of dividends
34 shall be distributed before the implementation date based on estimated increased costs for the

1 period of January 1 through December 31 of that year, which may be subject to cost
2 reconciliation based on actual total costs by June 30 of that year.

3 (c) The resident dividends shall be determined as follows:

4 (1) Fifty percent (50%) of the funds reserved for residents shall be returned in equal
5 amounts to residents in the state of Rhode Island whose incomes fall in the lowest one-third (1/3)
6 of after-tax incomes. Every resident in this one-third (1/3) shall receive an equal dividend
7 amount. Every resident in this one-third (1/3) who is a head of household with children or
8 dependents under the age of eighteen (18) shall have the dividend increased based on the number
9 of children or dependents under the age of eighteen (18) in residence, with each child adding the
10 value of one equal dividend amount.

11 (2) Thirty-five percent (35%) of the funds reserved for residents shall be returned in equal
12 amounts to residents in the state of Rhode Island whose incomes fall in the middle one-third (1/3)
13 of after-tax incomes. Every resident in this one-third (1/3) shall receive an equal dividend
14 amount. Every resident in this one-third (1/3) who is a head of household with children or
15 dependents under the age of eighteen (18) shall have the dividend increased based on the number
16 of children or dependents under the age of eighteen (18) in residence, with each child adding the
17 value of one equal dividend amount.

18 (3) Fifteen percent (15%) of the funds reserved for residents shall be returned in equal
19 amounts to residents in the state of Rhode Island whose incomes fall in the top one-third (1/3) of
20 after-tax incomes. Every resident in this one-third (1/3) shall receive an equal dividend amount.
21 Every resident in this one-third (1/3) who is a head of household with children or dependents
22 under the age of eighteen (18) shall have the dividend increased based on the number of children
23 or dependents under the age of eighteen (18) in residence, with each child adding the value of one
24 equal dividend amount.

25 (d) The employer dividends shall be determined as follows:

26 (1) Seventy percent (70%) of the funds reserved for employers shall be distributed to
27 employers in an amount proportional, in terms of full-time equivalent employees, to the
28 employer's share of total employment in the state.

29 (2) Thirty (30%) of the funds reserved for employers shall be additionally distributed to
30 employers identified by the office of energy resources as energy intensive, trade exposed, or most
31 vulnerable to fuel cost increases, which employers shall include, but not be limited to, the fishing
32 and agriculture industries.

33 (e) Residents and businesses will be given the option to opt out of receiving all or part of
34 their dividend payment to allow assistance to low-income residents so they do not experience

1 increased energy costs.

2 (f) The director of revenue shall issue a public report, submitted to the governor, the
3 speaker of the house, and the senate president, by December 31 of each year commencing with
4 2020, stating the expenditures from the economic and climate resilience fund for the most
5 recently completed fiscal year and plans to distribute the balance remaining in the fund, if any.

6 **23-82.1-6. Promulgation of Rules.**

7 The department of revenue, office of energy resources, and any other state agency or
8 instrumentality designated by this chapter or by the director of administration to perform
9 functions or duties to effectuate the purposes and functions of this chapter are hereby authorized
10 to adopt, in accordance with the provisions of chapter 35 of title 42, administer, and enforce any
11 rules necessary or convenient to carry out the purposes of this chapter.

12 **23-82.1-7. Implementation.**

13 The implementation of the provisions of this chapter shall commence upon initial
14 regional carbon fee enactment.

15 SECTION 4. This act shall take effect on July 1, 2020.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- ECONOMIC AND CLIMATE RESILIENCE ACT
OF 2020

1 This act would establish a fee on companies that sell fossil fuels in Rhode Island, paid at
2 the point of sale within the state for consumption or distribution within the state. This act would
3 also establish an "economic and climate resilience fund" to disburse the collected funds. The
4 funds would be disbursed through dividends to all residents and businesses in the state as well as
5 allocated to climate resilience, renewable energy, energy efficiency, and climate adaptation
6 programs that benefit Rhode Islanders, including low-income residents and small businesses. This
7 act would take effect upon the enactment of a fee of at least five dollars (\$5.00) per metric ton of
8 carbon by the legislatures of at least three (3) states: Rhode Island, Massachusetts, and one or
9 more additional states in the Regional Greenhouse Gas Initiative (RGGI).

10 This act shall take effect on July 1, 2020.

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