STATE OF NEW YORK

8080

2025-2026 Regular Sessions

IN SENATE

May 15, 2025

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to taxes on selected nicotine products

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

Section 1. The article heading of article 20 of the tax law, as amended by chapter 71 of the laws of 1959, is amended to read as follows:

ARTICLE 20

TAX ON CIGARETTES [~~AND~~]*,* TOBACCO PRODUCTS

AND SELECTED NICOTINE PRODUCTS

§ 2. Section 470 of the tax law is amended by adding two new subdivisions 22 and 23 to read as follows:

22. "Selected nicotine products." A nicotine pouch or products intended to be made into a nicotine pouch by the consumer.

23. "Nicotine pouch." A smokeless pre-portioned pouch containing nicotine but no tobacco, which the user puts and leaves between their lip and gum while the nicotine and taste is being released.

§ 3. Section 471-b of the tax law, as added by chapter 61 of the laws of 1989, subdivision 1 as amended by section 2 of part QQ-1 of chapter 57 of the laws of 2008, paragraphs (a) and (b) of subdivision 1 as amended by section 18 of part D of chapter 134 of the laws of 2010 and paragraph (c) of subdivision 1 as amended by section 1 of part Q of chapter 59 of the laws of 2024, is amended to read as follows:

§ 471-b. Imposition of [~~tobacco products~~] tax *on tobacco products and selected nicotine products*. 1. There is hereby imposed and shall be paid a tax on all tobacco products *and selected nicotine products* possessed in this state by any person for sale, except that no tax shall be imposed on tobacco products *and selected nicotine products* sold under such circumstances that this state is without power to impose such tax,

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

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or sold to the United States, or sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States, to the extent provided in such regulations and policy statements of such an agency applicable to such sales.

(a) Such tax on tobacco products **and selected nicotine products** other than snuff and little cigars shall be at the rate of seventy-five percent of the wholesale price, and is intended to be imposed only once upon the sale of **selected nicotine products and** any tobacco products other than snuff and little cigars.

(b) Such tax on snuff shall be at the rate of two dollars per ounce and a proportionate rate on any fractional parts of an ounce, provided that cans or packages of snuff with a net weight of less than one ounce shall be taxed at the equivalent rate of cans or packages weighing one ounce. Such tax shall be computed based on the net weight as listed by the manufacturer, and is intended to be imposed only once upon the sale of any snuff.

(c) The tax on each little cigar shall be at the rate of twenty-six and three-quarters cents and is intended to be imposed only once upon the sale of any little cigar.

It shall be presumed that all tobacco products **and selected nicotine products** within the state are subject to tax until the contrary is established, and the burden of proof that any tobacco products **and selected nicotine products** are not taxable hereunder shall be upon the person in possession thereof.

2. The distributor shall be liable for the payment of the tax on tobacco products **and selected nicotine products** which [~~he imports or causes~~] **they import or cause** to be imported into the state, or which [~~he manufactures~~] **they manufacture** in the state, and every distributor authorized by the commissioner of taxation and finance to make returns and pay the tax on tobacco products **and selected nicotine products** sold, shipped or delivered by [~~him~~] **them** to any person in the state shall be liable for the payment of the tax on all tobacco products **and selected nicotine products** so sold, shipped or delivered.

3. Every dealer shall be liable for the tax on all tobacco products **and selected nicotine products** in [~~his~~] **their** possession at any time, upon which tax has not been paid or assumed by a distributor appointed by the commissioner of taxation and finance, and the failure of any dealer to produce and exhibit to the commissioner of taxation and finance or [~~his~~] **the commissioner's** authorized representative upon demand, an invoice by a distributor or licensed wholesale dealer for any tobacco products **or selected nicotine products** in [~~his~~] **their** possession shall be presumptive evidence that the tax thereon has not been paid, and that such dealer is liable for the tax thereon unless evidence of such invoice, payment or assumption shall later be produced.

§ 4. The section heading and subdivision (a) of section 471-c of the tax law, the section heading as amended by section 2 of part I-1 of chapter 57 of the laws of 2009, paragraphs (i) and (ii) of subdivision (a) as amended by section 20 of part D of chapter 134 of the laws of 2010 and paragraph (iii) of subdivision (a) as amended by section 2 of part Q of chapter 59 of the laws of 2024, are amended to read as follows:

Use tax on tobacco products **and selected nicotine products**. (a) There is hereby imposed and shall be paid a tax on all tobacco products **and selected nicotine products** used in the state by any person, except that no such tax shall be imposed (1) if the tax provided in section four hundred seventy-one-b of this article is paid, or (2) on the use of tobacco products **or selected nicotine products** which are exempt from the tax imposed by said section, or (3) on the use of two hundred fifty cigars or less, or five pounds or less of tobacco other than roll-your-own tobacco, or thirty-six ounces or less of roll-your-own tobacco brought into the state on, or in the possession of, any person.

(i) Such tax on tobacco products **and selected nicotine products** other than snuff and little cigars shall be at the rate of seventy-five percent of the wholesale price.

(ii) Such tax on snuff shall be at the rate of two dollars per ounce and a proportionate rate on any fractional parts of an ounce, provided that cans or packages of snuff with a net weight of less than one ounce shall be taxed at the equivalent rate of cans or packages weighing one ounce. Such tax shall be computed based on the net weight as listed by the manufacturer.

(iii) The tax on each little cigar shall be at the rate of twenty-six and three-quarters cents and is intended to be imposed only once upon the sale of any little cigar.

§ 5. Subdivision 3 of section 472 of the tax law, as added by chapter 61 of the laws of 1989 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

3. The commissioner of taxation and finance may appoint dealers in tobacco products **and selected nicotine products**, manufacturers of tobacco products **and selected nicotine products,** and other persons within or without the state as distributors and may authorize them to make returns and to pay the tax on tobacco products **and selected nicotine products** sold, shipped or delivered by them to any person in the state. The commissioner may, in [~~his~~] **their** discretion, require the deposit of a bond issued by a surety company approved by the superintendent of financial services as to solvency and responsibility and authorized to transact business in this state, or other security acceptable to the commissioner in an amount and form satisfactory to [~~him~~] **them** as a condition of appointing any such person as a distributor. If securities are deposited as security under this subdivision, such securities shall be kept in the custody of the commissioner of taxation and finance and may be sold by the commissioner if it becomes necessary so to do in order to recover any sums due from such distributor pursuant to this article, but no such sale shall be had until after such distributor shall have had an opportunity to litigate the validity of any tax if it elects so to do. Upon any such sale, the surplus, if any, above the sums due under this article shall be returned to such distributor.

§ 6. Section 473-a of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

§ 473-a. Returns and payment of [~~tobacco products~~] tax **on tobacco products and selected nicotine products** by distributors. 1. Every distributor shall, on or before the twentieth day of each month, file with the commissioner of taxation and finance a return on forms to be prescribed and furnished by the commissioner, showing the quantity and wholesale price of all tobacco products **and selected nicotine products** imported or caused to be imported into the state by [~~him~~] **that distributor** or manufactured in the state by [~~him~~] **such distributor**, during the preceding calendar month. Every distributor authorized by the commissioner to make returns and pay the tax on tobacco products **and selected nicotine products** sold, shipped or delivered by [~~him~~] **them** to any person in the state shall file a return showing the quantity and wholesale price of all tobacco products **and selected nicotine products** so sold, shipped**,** or delivered during the preceding calendar month. Provided, however, the commissioner may, if [~~he~~] **such commissioner** deems it necessary in order to insure the payment of the taxes imposed by this article, require returns to be made at such times and covering such periods as [~~he~~] **they** may deem necessary, and, by regulation, may permit the filing of returns on a quarterly, semi-annual or annual basis, or may waive the filing of returns by a distributor for such time and upon such terms as [~~he~~] **they** may deem proper if satisfied that no tax imposed by this article is or will be payable by [~~him~~] **them** during the time for which returns are waived. Such returns shall contain such further information as the commissioner may require.

2. Every distributor shall pay to the commissioner with the filing of such return the tax on tobacco products **and selected nicotine products** for such month imposed under this article.

§ 7. Subdivisions 1, 2, 3 and 4 of section 474 of the tax law, subdivision 1 as amended and subdivision 3 as added by chapter 61 of the laws of 1989, subdivision 2 as amended by chapter 552 of the laws of 2008 and subdivision 4 as amended by section 1 of part T of chapter 59 of the laws of 2023, are amended to read as follows:

1. Every person who shall possess or transport any unstamped cigarettes upon the public highways, roads or streets of the state, shall be required to have in [~~his~~] **their** actual possession invoices or delivery tickets for such cigarettes. Such invoices or delivery tickets shall show the name and address of the consignor or seller, the name and address of the consignee or purchaser, the quantity and brands of the cigarettes transported, and the name and address of the person who has or shall assume the payment of the tax. The absence of such invoices or delivery tickets shall be prima facie evidence that such person is a dealer in cigarettes in this state and subject to the provisions of this article.

2. Every person who shall possess or transport more than two hundred fifty cigars, or more than five pounds of tobacco other than roll-your-own tobacco, or more than thirty-six ounces of roll-your-own tobacco**, or selected nicotine products the average expected nicotine content of which totals to more than fifteen hundred milligrams** upon the public highways, roads or streets of the state, shall be required to have in [~~his~~] **their** actual possession invoices or delivery tickets for such tobacco products **or selected nicotine products**. Such invoices or delivery tickets shall show the name and address of the consignor or seller, the name and address of the consignee or purchaser, the quantity and brands of the tobacco products **and selected nicotine products** transported, and the name and address of the person who has or shall assume the payment of the tax and the wholesale price or the tax paid or payable. The absence of such invoices or delivery tickets shall be prima facie evidence that such person is a dealer in tobacco products **or selected nicotine products** in this state and subject to the requirements of this article.

3. Every dealer or distributor or employee thereof, or other person acting on behalf of a dealer or distributor, who shall possess or transport more than fifty cigars or more than one pound of tobacco**, or selected nicotine products the average expected nicotine content of which totals to more than three hundred milligrams** upon the public highways, roads or streets of the state, shall be required to have in [~~his~~] **their** actual possession invoices or delivery tickets for such tobacco products **and such selected nicotine products**. Such invoices or delivery

tickets shall show the name and address of the consignor or seller, the name and address of the consignee or purchaser, the quantity and brands of the tobacco products **and selected nicotine products** transported, and the name and address of the person who has or shall assume the payment of the tax and the wholesale price or the tax paid or payable. The absence of such invoices or delivery tickets shall be prima facie evidence that the tax imposed by this article on tobacco products **and selected nicotine products** has not been paid and is due and owing.

4. At the time of delivering cigarettes to any person each agent or wholesale dealer, and at the time of delivering tobacco products to any person each distributor or wholesale dealer of tobacco products, **and at the time of delivering selected nicotine products to any person each distributor or wholesale dealer of selected nicotine products** shall make a true duplicate invoice showing the date of delivery, the number of packages and number of cigarettes contained therein, in each shipment of cigarettes delivered, and the items and quantity and wholesale price of each item in each shipment of tobacco products **and selected nicotine products** delivered, and the name of the purchaser to whom delivery is made, and shall retain the same for a period of three years subject to the use and inspection of the commissioner. Each dealer shall procure and retain invoices showing the number of packages and number of cigarettes contained therein, in each shipment of cigarettes received by [~~him or her~~] **them**, and the items and quantity and wholesale price of each item in each shipment of tobacco products **and selected nicotine products** received by [~~him or her~~] **them**, the date thereof, and the name of the shipper, and shall retain the same for a period of three years subject to the use and inspection of the commissioner. The commissioner by regulation may provide that whenever cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products** are shipped into the state, the railroad company, express company, trucking company or other public carrier transporting any shipment thereof shall file with the commissioner a copy of the freight bill within ten days after the delivery in the state of each shipment. All dealers shall maintain and keep for a period of three years such other records of cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products** received, sold or delivered within the state as may be required by the commissioner. The commissioner is hereby authorized to examine the books, papers, invoices and other records of any person in possession, control or occupancy of any premises where cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products** are placed, stored, sold or offered for sale, and the equipment of any such person pertaining to the stamping of cigarettes or the sale and delivery of cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products** taxable under this article, as well as the stock of cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products** in any such premises or vehicle. To verify the accuracy of the tax imposed and assessed by this article, each such person is hereby directed and required to give to the commissioner or [~~his or her~~] **their** duly authorized representatives, the means, facilities and opportunity for such examinations as are herein provided for and required.

§ 8. Section 476 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

§ 476. Refunds; sales of stamps. Whenever any cigarettes upon which stamps have been placed [~~or~~]**,** tobacco products upon which the tax has been paid**, or selected nicotine products upon which the tax has been paid** have been sold and shipped into another state for sale or use there or have become unfit for use and consumption or unsalable, or have been destroyed, or whenever the commissioner [~~of taxation and finance~~] shall have determined that any tax imposed by this article shall have been paid in error, the agent, dealer [~~or~~]**,** tobacco products distributor**, or distributor of selected nicotine products**, as the case may be, shall be entitled to a refund of the actual amount of tax so paid, provided application therefor is filed with the commissioner [~~of taxation and finance~~] within two years after the stamps were affixed to such cigarettes or the tax was paid upon such tobacco products **or selected nicotine products**, except if an agreement under the provisions of section four hundred seventy-eight (extending the period for determination of tax imposed by this article) is made within the two-year period for the filing of an application for refund provided for in this section, the period for filing an application for refund shall not expire prior to six months after the expiration of the period within which a determination may be made pursuant to the agreement or any extension thereof. If the commissioner [~~of taxation and finance~~] is satisfied that any dealer is entitled to a refund [~~he~~] **such commissioner** shall issue to such dealer stamps of sufficient value to cover the refund of the tax on cigarettes or may, subject to audit by the comptroller, make a refund of the tax on cigarettes or on tobacco products **or on selected nicotine products**. No person shall sell or offer for sale any stamp or stamps issued under this article except by written permission of the commissioner [~~of taxation and finance~~]. The commissioner [~~of taxation and finance~~] may redeem unused stamps lawfully in possession of any person. The commissioner [~~of taxation and finance~~] may prescribe necessary rules and regulations concerning refunds, sales of stamps, and redemptions under the provisions of this article.

§ 9. Paragraphs (a), (d), (j), (k) and (l) of subdivision 1, subparagraphs (i) and (iv) of paragraph (b) of subdivision 3 and subdivision 4 of section 480 of the tax law, paragraphs (a) and (j) as amended and paragraphs (d) and (l) of subdivision 1 as added by chapter 629 of the laws of 1996, paragraph (k) of subdivision 1 as amended by chapter 262 of the laws of 2000, subparagraph (i) of paragraph (b) of subdivision 3 as added by chapter 860 of the laws of 1987 and subparagraph (iv) of paragraph (b) of subdivision 3 and subdivision 4 as amended by chapter 61 of the laws of 1989, are amended to read as follows:

(a) On and after July first, nineteen hundred thirty-nine no person shall be a wholesale dealer unless [~~he has~~] **they have** been granted and publicly [~~displays~~] **display** in [~~his~~] **their** place of business a license from the department. Applications for licenses shall be made on forms prescribed by the commissioner.

(d) Each applicant shall file satisfactory proof that it will maintain a secure separate warehousing facility for the purpose of receiving and distributing cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products** and conducting its wholesale business. Such proof shall consist of a copy of a deed, or a copy of an executed lease for a minimum period of two years, to a separate, secure warehouse. If the applicant carries on another business in conjunction with the warehouse facility, the other business shall also be identified.

(j) The commissioner may for cause refuse to issue, or may suspend or revoke a wholesaler's license, or may forbid a retail dealer to continue selling cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products** or may forbid a person required to be appointed as a distributor of tobacco products **or selected nicotine products** who has not been so appointed from selling cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products**, after an opportunity for hearing has been afforded. A violation of any provision of this article or of any regulation issued under it shall be cause to forbid a retail dealer to continue selling cigarettes [~~or~~], tobacco products, or selected nicotine products.

(k) No agent shall sell cigarettes and no distributor shall sell tobacco products or selected nicotine products to an unlicensed wholesale dealer, or to a wholesale dealer whose license has been suspended or revoked, or to a retail dealer who is not registered under section four hundred eighty-a of this article, or whose registration has been suspended or revoked, and no wholesale dealer shall sell cigarettes [~~or~~], tobacco products, or selected nicotine products to a retail dealer who is not registered under section four hundred eighty-a of this article, or whose registration has been suspended or revoked, and no retail dealer shall sell cigarettes [~~or~~], tobacco products, or selected nicotine products unless such dealer is registered under section four hundred eighty-a of this article.

(l) Paragraphs (b), (c) and (g) of this subdivision shall not apply to the filing of an application for a license as a wholesale dealer that is based solely upon the ownership, operation or maintenance of one or more cigarette [~~or~~], tobacco products, or selected nicotine products vending machines in, at or upon premises owned or occupied by another person, or that is based solely upon the sale of tobacco products or selected nicotine products for resale, or that is based upon both the ownership, operation or maintenance of one or more cigarette [~~or~~], tobacco products, or selected nicotine products vending machines in, at or upon premises owned or occupied by another person and the sale of tobacco products or selected nicotine products for resale.

(i) Commits fraud or deceit in [~~his~~] their or its operations as a wholesale dealer or has committed fraud or deceit in procuring [~~his~~] their or its license,

(iv) Has knowingly aided and abetted the sale of cigarettes [~~or~~], tobacco products, or selected nicotine products by a person which such licensee or controlling person knows (A) has not been licensed by the commissioner of taxation and finance and (B) is a wholesale dealer pursuant to the terms of subdivision eight of section four hundred seventy of this [~~chapter~~] article.

4. If the commissioner of taxation and finance considers it necessary for the proper administration of the cigarette tax [~~or~~], tobacco products tax, or selected nicotine products tax imposed by this article or the cigarette marketing standards contained in article twenty-A of this chapter [~~he~~] they may require every person under this article who holds a license to file a new application for a license in such form and at such time as the commissioner may prescribe and to surrender such license. The commissioner may require such filing and such surrender not more often than once every three years. Upon the filing of such application with the proper fee and the surrender of such license, the commissioner shall issue, within such time as [~~he~~] they may prescribe, a new license to each applicant.

§ 10. Paragraphs (a) and (b) of subdivision 1, paragraphs (a), (b) and (d) of subdivision 2, subdivisions 3, 4 and 6 of section 480-a of the tax law, paragraphs (a) and (b) of subdivision 1 as added by chapter 190 of the laws of 1990, paragraphs (a) and (b) of subdivision 2 as amended by section 1 of part T of chapter 61 of the laws of 2011, paragraph (d) of subdivision 2 and subdivision 4 as amended by section 3-a of part I of chapter 59 of the laws of 2020, subdivision 3 as amended by section 125-a of part C of chapter 58 of the laws of 2009, paragraph (c) of subdivision 3 and paragraph (a-1) of subdivision 4 as added and paragraphs (b) and (d) of subdivision 4 as amended by section 3 of part T of chapter 59 of the laws of 2023 and subdivision 6 as added by section 1 of part P of chapter 59 of the laws of 2021, are amended to read as follows:

(a) On and after January first, nineteen hundred ninety-one, every retail dealer shall publicly display a certificate of registration from the department in each place of business in this state through which it sells cigarettes [~~or~~], tobacco products, or selected nicotine products at retail. A retail dealer who has no regular place of business shall publicly display such certificate on each of its carts, stands, trucks or other merchandising devices through which it sells cigarettes [~~or~~], tobacco products, or selected nicotine products in this state.

(b) Every person who owns or, if the owner is not the operator, then any person who operates one or more vending machines through which cigarettes [~~or~~], tobacco products, or selected nicotine products are sold in this state, regardless of whether located on the premises of the vending machine owner or, if the owner is not the operator, then the premises of the operator or the premises of any other person, must register each such vending machine with the department. On and after January first, nineteen hundred ninety-one, a vending machine registration certificate, in such form as may be prescribed by the commissioner of taxation and finance, shall be affixed to each vending machine through which cigarettes [~~or~~], tobacco products, or selected nicotine products are sold in this state.

(a) (i) Every retail dealer and every person owning or, if the owner is not the operator, then any person operating one or more vending machines through which cigarettes [~~or~~], tobacco products, or selected nicotine products are sold in this state, who is required under section eleven hundred thirty-six of this chapter to file a return for the quarterly period ending on the last day of August, nineteen hundred ninety or for the quarterly period ending on the last day of August in any year thereafter, must file an application for registration under this section with that quarterly return, in such form as shall be prescribed by the commissioner.

(ii) Each retail dealer must pay an application fee with the quarterly return of three hundred dollars for each retail place of business in this state through which it sells cigarettes [~~or~~], tobacco products, or selected nicotine products.

(iii) Every person who owns or, if the owner is not the operator, then any person who operates one or more vending machines through which cigarettes [~~or~~], tobacco products, or selected nicotine products are sold in this state, regardless of whether located on the premises of the vending machine owner or, if the owner is not the operator, then the premises of the operator or the premises of any other person, must pay an application fee with the quarterly return of one hundred dollars for each vending machine. The department will issue a registration certificate, as prescribed by the commissioner, after receipt of a registration application and the appropriate registration fee, prior to the next succeeding January first.

(b) Every retail dealer and every person who owns or, if the owner is not the operator, then any person who operates one or more vending machines through which cigarettes [~~or~~], tobacco products, or selected nicotine products are sold in this state who commences business after the last day of August, nineteen hundred ninety, or who commences selling cigarettes [~~or~~], tobacco products, or selected nicotine products at retail through a new or different place of business in this state after such date, or who commences selling cigarettes [~~or~~], tobacco products, or selected nicotine products through new or different vending machines after such date, must file with the commissioner an application for registration, in a form prescribed by [~~him or her~~] them, at least thirty days prior to commencing business or commencing sales. Each application must be accompanied by an application fee of three hundred dollars for each retail place of business and one hundred dollars for each vending machine to be registered. The department, within ten days after receipt of an application for registration under this paragraph and payment of the proper fee for application for registration, will issue a registration certificate, as prescribed by the commissioner, for each retail place of business or cigarette [~~or~~], tobacco products, or selected nicotine products vending machine registered.

(d) Except as otherwise provided in this section, all the provisions of article twenty-eight of this chapter relating to the personal liability for the tax, administration, collection and determination of tax, and deposit and disposition of revenue, including section eleven hundred thirty-eight of this chapter relating to determination of tax and section eleven hundred forty-five of this chapter (but only paragraphs one and two of subdivision (a) of such section) relating to penalties and interest for failure to file a return or pay tax within the time required, shall apply to the applications for registration and the fees for filing such applications required by this section and the penalty imposed pursuant to subdivision three of this section, as if such applications were returns required under section eleven hundred thirty-six of this chapter and such filing fees, penalties and interest were taxes required to be paid pursuant to such article twenty-eight, in the same manner and with the same force and effect as if the language of such provisions of such article twenty-eight had been incorporated in full into this article, except to the extent that any such provision is either inconsistent with a provision of this section or is not relevant thereto and with such other modifications as may be necessary to adapt the language of such provisions to the provisions of this section. Provided, however, that the commissioner of taxation and finance shall refund or credit an application fee paid with respect to the registration of a vending machine or a retail place of business in this state through which cigarettes [~~or~~], tobacco products, or selected nicotine products were to be sold if, prior to the beginning of the calendar year with respect to which such registration relates, the certificate of registration described in paragraph (a) of this subdivision is returned to the department of taxation and finance, or if such certificate has been destroyed, the retail dealer or vending machine operator satisfactorily accounts to the commissioner for the missing certificate, but such vending machine or retail place of business may not be used to sell cigarettes [~~or~~], tobacco products, or selected nicotine products in this state during such calendar year, unless it is re-registered. The provisions of section eleven hundred thirty-nine of this chapter shall apply to the refund or credit authorized by the preceding sentence and for such purposes, such refund or credit shall be deemed a refund of tax paid in error provided, however, no interest shall be allowed or paid on any such refund.

3. In addition to any other penalty imposed by this chapter: (a) Any retail dealer who violates the provisions of this section, after due notice and an opportunity for a hearing, for a first violation is liable for a civil fine not less than five thousand dollars but not to exceed twenty-five thousand dollars and for a second or subsequent violation

within three years following a prior finding of violation is liable for a civil fine not less than ten thousand dollars but not to exceed thirty-five thousand dollars; or

(b) Any person who owns or, if the owner is not the operator, then any person who operates one or more vending machines through which cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products** are sold in this state and who violates the provisions of this section, after due notice and an opportunity for a hearing, for a first violation is liable for a civil fine not less than seven hundred fifty dollars but not to exceed two thousand dollars and for a second or subsequent violation within three years following a prior finding of violation be liable for a civil fine not less than two thousand dollars but not to exceed six thousand dollars.

(c) If a retail dealer does not possess a valid registration, either because it failed to obtain a registration or its registration is suspended or revoked and the commissioner or their designee, pursuant to their authority under this article, attempts to inspect such premises for a violation of this section and such retail dealer, including an agent thereof, is found, after notice and opportunity to be heard, to have refused such inspection, such retail dealer shall be subject to a penalty of up to four thousand dollars for a first refusal and up to eight thousand dollars for a second or subsequent refusal within three years of a prior refusal.

4. (a) If a retail dealer possesses or sells unstamped or unlawfully stamped packages of cigarettes, or if a retail dealer is also licensed as an agent pursuant to section four hundred seventy-two **of this article** and it possesses unlawfully stamped packages of cigarettes or sells unstamped or unlawfully stamped packages of cigarettes at retail, (i) its registration shall be revoked for a period of one year, or (ii) for a second such possession or sale within a period of five years by a retail dealer or any affiliated person of such retail dealer, the registration of such retail dealer and the registration of any retail dealer that is an affiliated person of such retail dealer shall be revoked for a period of three years, or (iii) for a third such possession or sale within a period of five years by a retail dealer or any affiliated person of such retail dealer, the registration of such retail dealer and the registration of any retail dealer that is an affiliated person of such retail dealer shall be revoked for a period of five years. A retail dealer registration shall be revoked pursuant to this subdivision immediately upon such dealer's receipt of written notice of revocation from the commissioner. If unstamped or unlawfully stamped cigarettes are found in a retail dealer's warehouse or a warehouse of any affiliated person of such retail dealer, the revocation of the retail dealer's registration pursuant to this subdivision shall be applicable to each retail place of business in this state through which such retail dealer and any affiliated person of such retail dealer sells cigarettes.

(a-1) If a retail dealer, including an agent thereof, refuses to comply with the requirements of subdivision four of section four hundred seventy-four of this article its registration may be revoked (i) for a period of one year, or (ii) for a second such violation within a period of five years for up to three years, or (iii) for a third or subsequent violation within a period of seven years for a period up to ten years. A retail dealer registration shall be considered to be revoked pursuant to this subdivision immediately upon such dealer's receipt of written notice of revocation from the commissioner.

(b) A retail dealer who is notified of a revocation of its registration pursuant to this subdivision shall have the right to have the revocation reviewed by the commissioner or [~~his or her~~] their designee by contacting the department at a telephone number or an address to be disclosed in the notice of revocation within ten days of such dealer's receipt of such notification. The retail dealer may present written evidence or argument in support of its defense to the revocation, or may appear at a scheduled conference with the commissioner or [~~his or her~~] their designee to present oral arguments and written and oral evidence in support of such defense. The commissioner or [~~his or her~~] their designee is authorized to delay the effective date of the revocation to enable the retail dealer to present further evidence or arguments in connection with the revocation. The commissioner or [~~his or her~~] their designee shall cancel the revocation of registration if the commissioner or [~~his or her~~] their designee is not satisfied by a preponderance of the evidence that the retail dealer violated paragraph (a) or (a-1) of this subdivision, as may be applicable.

(c) An order of revocation of a retail dealer registration shall not be reviewable by the division of tax appeals, but may be reviewed pursuant to article seventy-eight of the civil practice law and rules by a proceeding commenced in the supreme court within four months of the revocation of registration petitioning that the order of revocation be enjoined or set aside. Such proceeding shall be instituted in the county where the commissioner has [~~his or her~~] their principal office. Upon the filing of such petition the court shall have jurisdiction to set aside such order of revocation, in whole or in part, or to dismiss the petition. The jurisdiction of the supreme court shall be exclusive and its order dismissing the petition or enjoining or setting aside such order, in whole or in part, shall be final, subject to review by the appellate division of the supreme court and the court of appeals in the same manner and form and with the same effect as provided by law for appeals from a judgment in a special proceeding. All such proceedings shall be heard and determined by the court and by any appellate court as expeditiously as possible and with lawful precedence over other civil matters. All such proceedings for review shall be heard on the petition, transcript and other papers, and on appeal shall be heard on the record, without requirement of printing.

(d) After review of the revocation of registration by the commissioner or [~~his or her~~] their designee is complete, or the time within which a retail dealer may request such review has expired without such a request having been made, notice of the revocation of a retail dealer registration pursuant to paragraph (a) of this subdivision shall be given by the commissioner to the head of the division of the lottery for the purpose of enforcement of section sixteen hundred seven of this chapter and such division may suspend or revoke any license issued with respect to a lottery agent's specific location pursuant to article thirty-four of this chapter if such lottery agent is a retail dealer of cigarettes whose registration for such location is suspended or revoked pursuant to this section. In addition, notice of such revocation shall also be given to the state liquor authority and such revocation shall constitute cause, for purposes of section one hundred eighteen of the alcoholic beverage control law, for revocation, cancellation or suspension of any license or permit issued pursuant to such law.

6. (a) No retail dealer who has its retail dealer registration cancelled, suspended or revoked pursuant to this section or has been forbidden from selling cigarettes [~~or~~], tobacco products, or selected

nicotine products pursuant to paragraph (j) of subdivision one of section four hundred eighty of this article shall possess cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products** in any place of business, cart, stand, truck or other merchandising device in this state beginning on the tenth day after such cancellation, suspension, revocation, or forbiddance and continuing for the duration of the same; provided however, such retail dealer shall not be prohibited before the tenth day after such cancellation, suspension, revocation, or forbiddance from selling or transferring its inventory of lawfully stamped cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products** on which the taxes imposed by this article have been assumed or paid to a properly registered retail dealer whose registration is not cancelled, suspended, or revoked or who has not been forbidden from selling cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products**.

(b) No retail dealer shall possess cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products** in any place of business, cart, stand, truck or other merchandising device in this state unless it has obtained a valid retail dealer registration from the commissioner.

(c) The possession of cigarettes [~~or~~]**,** tobacco products**, or selected nicotine products** by an unlicensed retail dealer in violation of paragraph (a) or (b) of this subdivision shall be subject to the penalties authorized by subdivision three of this section.

§ 11. Clause (B) of subparagraph (i) of paragraph (a) of subdivision 1, subparagraph (i) and clauses (B) and (C) of subparagraph (ii) of paragraph (b) of subdivision 1, paragraphs (c) and (d) of subdivision 1 and subdivision 2 of section 481 of the tax law, clause (B) of subparagraph (i) of paragraph (a) of subdivision 1 and subdivision 2 as amended by chapter 61 of the laws of 1989, subparagraph (i) of paragraph (b) of subdivision 1 as amended by section 1 of part O of chapter 59 of the laws of 2013, clauses (B) and (C) of subparagraph (ii) of paragraph (b) of subdivision 1 as added by chapter 262 of the laws of 2000, paragraph (c) of subdivision 1 and paragraph (a) of subdivision 2 as amended and paragraph (d) of subdivision 1 as added by chapter 552 of the laws of 2008, are amended to read as follows:

(B) If a tax on cigarettes [~~or~~]**,** on tobacco products**, or on selected nicotine products** under this article is not paid when due by any other person, the person liable for the payment of such tax shall be subject to a penalty of fifty per centum of the amount of such tax determined to be due as provided in this article plus one per centum of such amount for each month or fraction thereof during which such failure to pay continues after the expiration of the first month after such tax became due.

(i) In addition to any other penalty imposed by this article, the commissioner may (A) impose a penalty of not more than six hundred dollars for each two hundred cigarettes, or fraction thereof, in excess of one thousand cigarettes in unstamped or unlawfully stamped packages in the possession or under the control of any person or (B) impose a penalty of not more than two hundred dollars for each ten unaffixed false, altered or counterfeit cigarette tax stamps, imprints or impressions, or fraction thereof, in the possession or under the control of any person. In addition, the commissioner may impose a penalty of not more than seventy-five dollars for each fifty cigars or one pound of tobacco **or three hundred milligrams worth of nicotine of selected nicotine products**, or fraction thereof, in excess of two hundred fifty cigars or five pounds of tobacco **or fifteen hundred milligrams of nicotine worth of selected nicotine products** in the possession or under the control of any person and a penalty of not more than one hundred fifty dollars for each fifty cigars or pound of tobacco **or three milligrams worth of nicotine of selected nicotine products**, or fraction thereof, in excess of five hundred cigars or ten pounds of tobacco **or three thousand milligrams of nicotine worth of selected nicotine products** in the possession or under the control of any person, with respect to which the tobacco products tax **or selected nicotine products tax** has not been paid or assumed by a distributor or tobacco products dealer **or selected nicotine products dealer**; provided, however, that any such penalty imposed shall not exceed seven thousand five hundred dollars in the aggregate. The commissioner may impose a penalty of not more than seventy-five dollars for each fifty cigars or one pound of tobacco **or three hundred milligrams of nicotine worth of selected nicotine products**, or fraction thereof, in excess of fifty cigars or one pound of tobacco **or three hundred milligrams of nicotine worth of selected nicotine products** in the possession or under the control of any tobacco products **or selected nicotine products** dealer or distributor appointed by the commissioner, and a penalty of not more than one hundred fifty dollars for each fifty cigars or pound of tobacco **or three hundred milligrams worth of nicotine of selected nicotine products**, or fraction thereof, in excess of two hundred fifty cigars or five pounds of tobacco **or fifteen hundred milligrams of nicotine worth of selected nicotine products** in the possession or under the control of any such dealer or distributor, with respect to which the tobacco products tax **or selected nicotine products tax** has not been paid or assumed by a distributor or a tobacco products **or selected nicotine products** dealer; provided, however, that any such penalty imposed shall not exceed fifteen thousand dollars in the aggregate.

(B)(I) not less than twenty-five dollars but not more than one hundred dollars for each fifty cigars or one pound of tobacco **or three hundred milligrams worth of nicotine of selected nicotine products**, or fraction thereof, in excess of two hundred fifty cigars or five pounds of tobacco **or fifteen hundred milligrams worth of nicotine of selected nicotine products** knowingly in the possession or knowingly under the control of any person, with respect to which the tobacco products tax **or selected nicotine products tax** has not been paid or assumed by a distributor or tobacco products **or selected nicotine products** dealer; and

(II) not less than fifty dollars but not more than two hundred dollars for each fifty cigars or pound of tobacco **or three hundred milligrams worth of nicotine of selected nicotine products**, or fraction thereof, in excess of five hundred cigars or ten pounds of tobacco **or three thousand milligrams worth of nicotine of selected nicotine products** knowingly in the possession or knowingly under the control of any person, with respect to which the tobacco products tax **or selected nicotine products tax** has not been paid or assumed by a distributor or tobacco products **or selected nicotine products** dealer; provided, however, that any such penalty imposed under this clause shall not exceed ten thousand dollars in the aggregate.

(C)(I) not less than twenty-five dollars but not more than one hundred dollars for each fifty cigars or one pound of tobacco **or three hundred milligrams worth of nicotine of selected nicotine products**, or fraction thereof, in excess of fifty cigars or one pound of tobacco **or three hundred milligrams worth of nicotine of selected nicotine products** knowingly in the possession or knowingly under the control of any person, with respect to which the tobacco products tax **or selected nicotine products tax** has not been paid or assumed by a distributor or tobacco products **or selected nicotine products** dealer; and

(II) not less than fifty dollars but not more than two hundred dollars for each fifty cigars or pound of tobacco **or three hundred milligrams worth of nicotine of selected nicotine products**, or fraction thereof, in excess of two hundred fifty cigars or five pounds of tobacco **or fifteen hundred milligrams worth of nicotine of selected nicotine products** knowingly in the possession or knowingly under the control of any person, with respect to which the tobacco products tax **or selected nicotine products tax** has not been paid or assumed by a distributor or a tobacco products **or selected nicotine products** dealer; provided, however, that any such penalty imposed under this clause shall not exceed twenty thousand dollars in the aggregate.

(c) In addition to any other penalties that may be imposed by law, the commissioner may impose a civil penalty not to exceed five thousand dollars against any tobacco product manufacturer **or selected nicotine product manufacturer** or cigarette tax agent who violates the provisions of section four hundred eighty-b of this article, including but not limited to the filing of a false certification, and may seek to suspend or cancel any license, registration or appointment which has been issued to such person pursuant to this chapter.

(d) In addition to any other penalties that may be imposed by law, the commissioner may impose a civil penalty not to exceed five thousand dollars against any tobacco product **or selected nicotine product** manufacturer or distributor who violates the provisions of section four hundred eighty-c of this article, including but not limited to the filing of a false certification, and may seek to suspend or cancel any license, registration or appointment that has been issued to the tobacco product **or selected nicotine product** manufacturer or distributor under this chapter.

2. (a) The possession within this state of more than four hundred cigarettes in unstamped or unlawfully stamped packages or more than two hundred fifty cigars, or more than five pounds of tobacco other than roll-your-own tobacco, or more than thirty-six ounces of roll-your-own tobacco**, or more than fifteen hundred milligrams worth of nicotine of selected nicotine products** by any person other than an agent or distributor, as the case may be, at any one time shall be presumptive evidence that such cigarettes or tobacco products **or selected nicotine products** are subject to tax as provided by this article.

(b) Nothing in this section shall apply to common or contract carriers or [~~warehousemen~~] **warehouse workers** while engaged in lawfully transporting or storing tobacco products **or selected nicotine products** or unstamped packages of cigarettes as merchandise, nor to any employee of such carrier or [~~warehouseman~~] **warehouse worker** acting within the scope of [~~his~~] **their** employment, nor to public officers or employees in the performance of their official duties requiring possession or control of tobacco products **or selected nicotine products** or unstamped or unlawfully stamped packages of cigarettes, nor to temporary incidental possession by employees or agents of persons lawfully entitled to possession, nor to persons whose possession is for the purpose of aiding police officers in performing their duties.

§ 12. This act shall take effect immediately.