

3388

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. CLARK, FARRELL, NOLAN, AUBRY, BRENNAN, LENTOL, GREENE, TITUS, POWELL, COOK, ROBINSON, BENEDETTO -- Multi-Sponsored by -- M. of A. ARROYO, BENJAMIN, BOYLAND, DIAZ, DINOWITZ, GOTTFRIED, HEVESI, V. LOPEZ, MAGEE, MAYERSOHN, PHEFFER, PRETLOW, N. RIVERA, P. RIVERA, SCARBOROUGH, WEISENBERG, WEPRIN -- read once and referred to the Committee on Tourism, Arts and Sports Development

AN ACT to amend the general municipal law, in relation to providing for an assessment on admission tickets for professional sporting events held within a city with a population of one million or more for the purpose of funding extracurricular activities in city public schools

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The general municipal law is amended by adding a new
2 section 6-t to read as follows:
3 S 6-T. TICKET ASSESSMENT FOR PROFESSIONAL SPORTING EVENTS FOR USE BY
4 CITY SCHOOL DISTRICT. 1. A CITY WITH A POPULATION OF ONE MILLION OR
5 MORE ACTING THROUGH ITS LOCAL LEGISLATIVE BODY IS HEREBY AUTHORIZED AND
6 EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IMPOSING, IN ACCORDANCE WITH THE
7 PROVISIONS OF THIS SECTION, AN ASSESSMENT ON ADMISSION TICKETS FOR
8 PROFESSIONAL SPORTING EVENTS HELD AT ALL LOCATIONS WITHIN SAID CITY.
9 2. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL MEAN OR
10 INCLUDE:
11 (A) "ADMISSION TICKET." THE TERM "ADMISSION TICKET" SHALL MEAN ANY
12 CHARGE FOR THE RIGHT OR PRIVILEGE TO ENTER AND OCCUPY A SEAT OR SPACE
13 INCLUDING BUT NOT LIMITED TO A BOX SEAT OR SUITE WHETHER THE ADMISSION
14 TICKET IS SOLD FOR AN INDIVIDUAL EVENT, AS A SEASON TICKET OR AS PART OF
15 A SPECIAL ADMISSION TICKET PACKAGE AT A LOCATION FOR A SPORTING EVENT,
16 OR A SERIES OF SPORTING EVENTS.
17 (B) "LOCATION." A PREDETERMINED OR SCHEDULED AREA WHERE PROFESSIONAL
18 SPORTING EVENTS OCCUR FOR WHICH ANY ADMISSION CHARGE IS LEVIED.

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

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1 (C) "VENDOR." ANY PERSON, FIRM, CORPORATION, ASSOCIATION OR PARTNER-
2 SHIP, PROMOTER OR SPONSOR WHICH HOLDS PROFESSIONAL SPORTING EVENTS FOR
3 WHICH ANY ADMISSION CHARGE IS LEVIED.

4 (D) "CITY." A CITY WITH A POPULATION OF ONE MILLION OR MORE.

5 (E) "SPORTING EVENT." ANY EVENT INVOLVING PROFESSIONAL ATHLETES,
6 INCLUDING BUT NOT LIMITED TO, PROFESSIONAL TENNIS, BOXING AND WRESTLING
7 MATCHES, BASEBALL, BASKETBALL, FOOTBALL, HOCKEY, SOCCER, VOLLEYBALL,
8 RODEO, MOTOCROSS OR MOTOR VEHICLE OR TRUCK SHOWS OR RACES.

9 (F) "COMMISSIONER." THE COMMISSIONER OF FINANCE OF SAID CITY.

10 3. ANY LOCAL LAW ADOPTED PURSUANT TO SUBDIVISION ONE OF THIS SECTION
11 SHALL REQUIRE EVERY VENDOR HOLDING A SPORTING EVENT TO WHICH SUCH LAW IS
12 APPLICABLE, TO REMIT AN ASSESSMENT OF THREE PERCENT OF THE PURCHASE
13 PRICE OF EACH ADMISSION TICKET FOR EACH SUCH SPORTING EVENT. IN CASE OF
14 FAILURE TO COLLECT SUCH ASSESSMENT ON SUCH TICKET PURCHASE THE SAME
15 SHALL BE IMPOSED UPON THE VENDOR HOLDING SUCH SPORTING EVENT. SUCH
16 ASSESSMENT SHALL BE PAID TO THE CITY EVERY MONTH. SUCH FUNDS SHALL BE
17 REMITTED NO LATER THAN THIRTY DAYS AFTER THE LAST BUSINESS DAY OF THE
18 MONTH. THE AMOUNT SO COLLECTED SHALL BE DEPOSITED IN THE GENERAL FUND OF
19 THE CITY, AND SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE PROVISIONS OF
20 SUBDIVISION SEVEN OF THIS SECTION.

21 4. EACH VENDOR REQUIRED TO PAY A SURCHARGE PURSUANT TO THIS SECTION
22 SHALL BE ENTITLED TO RETAIN, AS AN ADMINISTRATIVE FEE, AN AMOUNT EQUAL
23 TO TWO PERCENT OF ANY SUCH SURCHARGE CHARGED AGAINST AND ACTUALLY PAID
24 BY SUCH VENDOR, PROVIDED THAT SUCH VENDOR FILES ANY REQUIRED RETURN OR
25 REPORT AND PAYS SUCH SURCHARGE TO THE CHIEF FISCAL OFFICER OF SUCH CITY
26 ON OR BEFORE ITS DUE DATE.

27 5. ANY LOCAL LAW ADOPTED PURSUANT TO THE AUTHORITY OF SUBDIVISION ONE
28 OF THIS SECTION, TO THE EXTENT CONSISTENT WITH THIS SECTION, SHALL MAKE
29 PROVISIONS NECESSARY AND APPROPRIATE FOR THE PROPER IMPOSITION,
30 COLLECTION AND ADMINISTRATION OF THE ASSESSMENT HEREIN AUTHORIZED,
31 INCLUDING, BUT NOT LIMITED TO, PROVISIONS:

32 (A) FOR THE FILING OF RETURNS;

33 (B) FOR THE MAKING OF REFUNDS;

34 (C) FOR THE MAINTENANCE, RETENTION AND INSPECTION OF RECORDS;

35 (D) FOR THE SUBPOENA OF PERSONS AND RECORDS AND THE ADMINISTRATION OF
36 OATHS;

37 (E) FOR THE ENFORCEMENT OF COLLECTION BY ANY MEANS PROVIDED BY LAW,
38 INCLUDING EXECUTION AND SALE BY THE SHERIFF OR OTHERWISE;

39 (F) FOR THE PROMULGATION BY THE CITY FOR THE EFFECTIVE ADMINISTRATION
40 AND ENFORCEMENT OF THE SURCHARGE;

41 (G) FOR THE PAYMENT OF INTEREST AND PENALTIES IN THE CASE OF DELIN-
42 QUENCY;

43 (H) FOR THE ENFORCEMENT OF SUCH LOCAL LAW BY APPROPRIATE PROCEEDINGS;
44 AND

45 (I) FOR MAKING VIOLATIONS THEREOF MISDEMEANORS AND PRESCRIBING THE
46 PUNISHMENT FOR SUCH VIOLATIONS BY CIVIL PENALTY, FINE, FORFEITURE, OR
47 IMPRISONMENT, OR BY TWO OR MORE OF SUCH PUNISHMENTS.

48 6. (A) ANY FINAL DETERMINATION OF THE AMOUNT OF ANY ASSESSMENT PAYABLE
49 HEREUNDER SHALL BE REVIEWABLE FOR ERROR, ILLEGALITY OR UNCONSTITUTIONAL-
50 ITY OR ANY OTHER REASON WHATSOEVER BY A PROCEEDING UNDER ARTICLE SEVEN-
51 TY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES IF THE PROCEEDING IS
52 COMMENCED WITHIN NINETY DAYS AFTER THE GIVING OF THE NOTICE OF SUCH
53 FINAL DETERMINATION, PROVIDED, HOWEVER, THAT ANY SUCH PROCEEDING SHALL
54 NOT BE INSTITUTED UNLESS THE AMOUNT OF ANY ASSESSMENT SOUGHT TO BE
55 REVIEWED, WITH SUCH INTEREST AND PENALTIES THEREON AS MAY BE PROVIDED
56 FOR BY LOCAL LAW, SHALL FIRST BE DEPOSITED AND AN UNDERTAKING FILED, IN

1 SUCH AMOUNT AND WITH SUCH SURETIES AS A JUSTICE OF THE SUPREME COURT
2 SHALL APPROVE TO THE EFFECT THAT IF SUCH PROCEEDING BE DISMISSED OR THE
3 ASSESSMENT CONFIRMED, THE PETITIONER WILL PAY ALL COSTS AND CHARGES
4 WHICH MAY ACCRUE IN THE PROSECUTION OF SUCH PROCEEDING.

5 (B) EXCEPT IN THE CASE OF A WILFULLY FALSE AND FRAUDULENT RETURN WITH
6 INTENT TO EVADE THE ASSESSMENT, NO ADDITIONAL LEVY SHALL BE MADE WITH
7 RESPECT TO THE ASSESSMENT IMPOSED UNDER THIS SECTION, AFTER THE EXPIRA-
8 TION OF MORE THAN THREE YEARS FROM THE DATE OF THE FILING OF A RETURN,
9 PROVIDED, HOWEVER, THAT WHERE NO RETURN HAS BEEN FILED AS PROVIDED BY
10 LOCAL LAW, THE ASSESSMENT MAY BE LEVIED AT ANY TIME.

11 7. THE PROCEEDS SHALL BE DISTRIBUTED TO THE CITY BOARD OF EDUCATION IN
12 ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION. THE BOARD SHALL
13 UTILIZE SUCH PROCEEDS FOR THE IMPLEMENTATION AND MAINTENANCE OF EXTRA-
14 CURRICULAR ATHLETICS AND THEIR SUPPORTING ENTITIES, INCLUDING, BUT NOT
15 LIMITED TO, ATHLETIC TEAMS, SPORTING GOODS EQUIPMENT, UNIFORMS FOR TEAM
16 SPORTS, TRANSPORTATION TO OUTSIDE FACILITIES OR GAMES, EXPENSES AND FEES
17 FOR INTERSCHOOL AND INTRAMURAL SPORTS COMPETITIONS, NEGOTIATED RENTAL
18 FEES FOR NON-SCHOOL ATHLETIC FACILITIES USED BY PUBLIC HIGH SCHOOLS,
19 ATHLETIC TRAINING EQUIPMENT, CHEERLEADERS, AND MARCHING BANDS, IN ALL
20 PUBLIC HIGH SCHOOLS LOCATED WITHIN THE CITY.

21 8. THIS SECTION IS ENACTED TO CARRY OUT THE PURPOSE OF PROVIDING AN
22 ASSESSMENT ON ADMISSION TICKETS FOR PROFESSIONAL SPORTING EVENTS HELD
23 WITHIN A CITY WITH A POPULATION OF ONE MILLION OR MORE, THE PROCEEDS OF
24 SAID ASSESSMENT WHICH ARE TO BE USED AND APPLIED EXCLUSIVELY FOR THE
25 PURPOSE OF FUNDING EXTRACURRICULAR ACTIVITIES IN CITY PUBLIC SCHOOLS.
26 ALL INCREASES FROM THE PROCEEDS OF THE ASSESSMENT SHALL BE DEDICATED AS
27 INCREASES IN THE FUNDS AVAILABLE FOR THE PURPOSES OF THIS SECTION.

28 9. THE BOARD OF EDUCATION OF ANY CITY COVERED BY THIS SECTION SHALL
29 MAKE A REPORT TO THE GOVERNOR, MAJORITY LEADER OF THE SENATE AND SPEAKER
30 OF THE ASSEMBLY DETAILING THE USE OF THE FUNDS OBTAINED AS A RESULT OF
31 SAID ASSESSMENT. SAID REPORT SHALL BE MADE ON OR BEFORE THE FIRST OF
32 MARCH OF EACH YEAR.

33 S 2. This act shall take effect on the thirtieth day after it shall
34 have become a law.