

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. CAHILL, GOTTFRIED, FINCH -- Multi-Sponsored by --  
M. of A. DINOWITZ, GALEF, JACOBS, KOON, WEISENBERG -- read once and  
referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the form of tax stamps on  
cigarettes

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

1 Section 1. Subdivision 1 of section 472 of the tax law, as amended by  
2 chapter 629 of the laws of 1996, is amended to read as follows:  
3 1. The commissioner shall [prescribe,] prepare and furnish stamps of  
4 such denominations and quantities as may be necessary for the payment of  
5 the tax on cigarettes imposed by this article, and may from time to time  
6 and as often as he deems advisable provide for the issuance and exclu-  
7 sive use of stamps of a new design and forbid the use of stamps of any  
8 other design, in the manner and with the effect provided in section two  
9 hundred seventy-four of this chapter. SUCH STAMPS SHALL MEASURE TWO  
10 INCHES BY TWO INCHES AND BE AFFIXED TO THE PACKAGE OVERWRAP ON BOTH  
11 SIDES OF A PACKAGE OF TWENTY CIGARETTES. EACH STAMP SHALL BEAR A COLOR  
12 GRAPHIC DEPICTING AN ADVERSE EFFECT OF CIGARETTE USE AND INCLUDE A TOLL  
13 FREE TELEPHONE NUMBER WHICH CALLERS MAY ACCESS FOR INFORMATION ON SMOK-  
14 ING CESSATION. The commissioner shall make provisions for the sale of  
15 such stamps at such places and at such times as he may deem necessary  
16 and may license agents for such purpose. The commissioner may license  
17 dealers in cigarettes, who maintain separate warehousing facilities for  
18 the purpose of receiving and distributing cigarettes and conducting  
19 their business, who have received commitments from at least two ciga-  
20 rette manufacturers whose aggregate market share is at least forty  
21 percent of the New York state cigarette market, and importers, exporters  
22 and manufacturers of cigarettes, and other persons within or without the  
23 state as agents to buy or affix stamps to be used in paying the tax

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

1 herein imposed, but an agent shall at all times have the right to  
2 appoint the person in his employ who is to affix the stamps to any ciga-  
3 rettes under the agent's control. The fee for filing such application  
4 for an agent's license shall be one thousand five hundred dollars,  
5 unless such fee has been paid during the preceding twelve months, in  
6 which case, the fee for a new license shall be one thousand dollars. All  
7 of the provisions of section four hundred eighty OF THIS ARTICLE relat-  
8 ing to wholesale dealers' licenses, including the procedure for suspen-  
9 sion, revocation, refusal to license and for hearings, except for para-  
10 graphs (c) and (g) of subdivision one of such section, shall be  
11 applicable to agents' licenses applied for or granted pursuant to this  
12 section, as if such provisions had been set forth in full in this subdivi-  
13 sion and had expressly referred to the applicant for, or the holder  
14 of, an agent's license. Whenever the commissioner shall sell and deliver  
15 to any such agent any such stamps, such agent shall be entitled to  
16 receive as compensation for his services and expenses as such agent in  
17 selling or affixing such stamps, and to retain out of the moneys to be  
18 paid by him for such stamps, a commission on the par value thereof. The  
19 commissioner is hereby authorized to prescribe a schedule of commis-  
20 sions, not exceeding five per centum, allowable to such agent for buying  
21 and affixing such stamps. Such schedule shall be uniform with respect to  
22 the different types of stamps used, and may be on a graduated scale with  
23 respect to the number of stamps purchased. The commissioner may, in his  
24 discretion, permit an agent to pay for such stamps within thirty days  
25 after the date of purchase and may require any such agent to file with  
26 the department [of taxation and finance] a bond issued by a surety  
27 company approved by the superintendent of insurance as to solvency and  
28 responsibility and authorized to transact business in the state or other  
29 security acceptable to the commissioner, in such amount as the commis-  
30 sioner may fix, to secure the payment of any sums due from such agent  
31 pursuant to this article. If securities are deposited as security under  
32 this subdivision, such securities shall be kept in the custody of the  
33 commissioner and may be sold by the commissioner if it becomes necessary  
34 so to do in order to recover any sums due from such agent pursuant to  
35 this article, but no such sale shall be had until after such agent shall  
36 have had opportunity to litigate the validity of any tax if it elects so  
37 to do. Upon any such sale, the surplus, if any, above the sums due under  
38 this article shall be returned to such agent.

39 S 2. This act shall take effect on the one hundred twentieth day after  
40 it shall have become a law.