

4036

2009-2010 Regular Sessions

I N S E N A T E

April 7, 2009

Introduced by Sen. C. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to authorizing Nassau county to impose a tax on tobacco products

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

1 Section 1. The tax law is amended by adding a new section 471-f to
2 read as follows:

3 S 471-F. IMPOSITION OF TOBACCO PRODUCTS TAX IN NASSAU COUNTY. 1.
4 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, AND AT THE
5 REQUEST OF ITS COUNTY EXECUTIVE AND LOCAL LEGISLATIVE BODY, NASSAU COUN-
6 TY, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND
7 EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IMPOSING IN NASSAU COUNTY TAXES
8 ON CIGARETTES, CIGARS, OR SMOKING TOBACCO SUCH AS THE LEGISLATURE HAS OR
9 WOULD HAVE POWER AND AUTHORITY TO IMPOSE. SUCH TAXES MAY BE COLLECTED
10 AND ADMINISTERED BY THE FISCAL OFFICER OF SUCH COUNTY BY SUCH MEANS AND
11 IN SUCH MANNER AS MAY BE PROVIDED BY SUCH LOCAL LAWS. THE TAXES MAY BE
12 IMPOSED ON THE USE, SALE, EXCHANGE, TRANSFER, STORAGE, WITHDRAWAL,
13 POSSESSION OR RETENTION OF CIGARETTES, CIGARS OR SMOKING TOBACCO,
14 PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL AUTHORIZE THE
15 IMPOSITION OF A TAX ON THE USE, RETENTION (OTHER THAN FOR SALE) OF TWO
16 HUNDRED CIGARETTES, CIGARS OR SMOKING TOBACCO, PROVIDED, HOWEVER, THAT
17 NOTHING IN THIS SECTION SHALL AUTHORIZE THE IMPOSITION OF A TAX ON THE
18 USE, POSSESSION OR RETENTION (OTHER THAN FOR SALE) OF TWO HUNDRED CIGA-
19 RETTES OR LESS, OF FIFTY CIGARS OR LESS OR OF TWO POUNDS OF SMOKING
20 TOBACCO OR LESS BROUGHT INTO THE COUNTY ON, OR IN POSSESSION OF, ANY
21 PERSON.

22 A. THE RATE OF SUCH TAX ON CIGARETTES SHALL NOT EXCEED ONE DOLLAR FOR
23 EACH TEN CIGARETTES OR FRACTION THEREOF, PROVIDED HOWEVER, THAT IF A
24 PACKAGE OF CIGARETTES CONTAINS MORE THAN TWENTY CIGARETTES, THE RATE OF

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

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1 TAX ON THE CIGARETTES IN SUCH PACKAGE IN EXCESS OF TWENTY SHALL NOT
2 EXCEED FIFTY CENTS FOR EACH FIVE CIGARETTES OR FRACTION THEREOF. SUCH
3 TAX IS INTENDED TO BE IMPOSED ONLY ONCE ON THE SAME PACKAGE OF CIGA-
4 RETTES.

5 B. THE RATE OF SUCH TAX ON CIGARS SHALL NOT EXCEED ONE CENT ON EACH
6 CIGAR SOLD AT A PRICE OF NOT LESS THAN SEVEN CENTS AND NOT MORE THAN
7 FIFTEEN CENTS; SHALL NOT EXCEED TWO CENTS ON EACH CIGAR SOLD AT A PRICE
8 OF NOT LESS THAN SIXTEEN CENTS AND NOT MORE THAN TWENTY-NINE CENTS; AND
9 SHALL NOT EXCEED THREE CENTS ON EACH CIGAR SOLD AT A PRICE OF THIRTY
10 CENTS OR MORE. WHERE MORE THAN ONE CIGAR IS SOLD, WHETHER OR NOT IN A
11 PACKAGE, BOX OR CONTAINER, SUCH TAX SHALL BE APPLIED TO EACH CIGAR ON
12 THE BASIS OF THE PRICE APPLICABLE TO EACH CIGAR. THE TAX SHALL NOT BE
13 APPLICABLE TO CIGARS SOLD AT A PRICE LESS THAN SEVEN CENTS A CIGAR.

14 C. THE RATE OF SUCH TAX ON SMOKING TOBACCO SHALL NOT EXCEED ONE CENT
15 FOR EACH TWENTY CENTS OR FRACTION THEREOF OF THE PRICE AT WHICH SUCH
16 SMOKING TOBACCO IS SOLD.

17 2. AS USED IN THIS SECTION, THE TERM "CIGARETTE" SHALL MEAN AND
18 INCLUDE ANY ROLL FOR SMOKING MADE WHOLLY OR IN PART OF TOBACCO OR OF ANY
19 OTHER SUBSTANCE, IRRESPECTIVE OF SIZE OR SHAPE AND WHETHER OR NOT SUCH
20 TOBACCO OR SUBSTANCE IS FLAVORED, ADULTERATED OR MIXED WITH ANY OTHER
21 INGREDIENT, THE WRAPPER OR COVER OF WHICH IS MADE OF PAPER OR ANY OTHER
22 SUBSTANCE OR MATERIAL EXCEPT TOBACCO.

23 3. A TAX IMPOSED PURSUANT TO THIS SECTION SHALL HAVE APPLICATION ONLY
24 WITHIN THE TERRITORIAL LIMITS OF NASSAU COUNTY AND SHALL BE IN ADDITION
25 TO ANY AND ALL OTHER TAXES. THE METHOD OF COLLECTING ANY TAX IMPOSED
26 PURSUANT TO THIS SECTION, EITHER WITH OR WITHOUT ADHESIVE OR METER
27 STAMPS, SHALL BE SUBJECT TO THE APPROVAL OF THE DEPARTMENT.

28 4. ANY TAX IMPOSED PURSUANT TO THIS SECTION SHALL BE REFUNDED WHENEVER
29 ANY CIGARETTES UPON WHICH THE TAX HAS BEEN PAID HAVE BEEN SOLD AND
30 SHIPPED INTO ANOTHER STATE FOR SALE OR USE THERE.

31 5. NO TAX IMPOSED PURSUANT TO THIS SECTION SHALL APPLY TO THE SALE OF
32 CIGARETTES UNDER SUCH CIRCUMSTANCES THAT THIS STATE IS WITHOUT POWER TO
33 IMPOSE SUCH TAX OR TO CIGARETTES SOLD TO THE UNITED STATES OR TO CIGA-
34 RETTES SOLD TO OR BY A VOLUNTARY UNINCORPORATED ORGANIZATION OF THE
35 ARMED FORCES OF THE UNITED STATES OPERATING A PLACE FOR THE SALE OF
36 GOODS PURSUANT TO REGULATIONS PROMULGATED BY THE APPROPRIATE EXECUTIVE
37 AGENCY OF THE UNITED STATES.

38 S 2. This act shall take effect immediately.