S T A T E O F N E W Y O R K

4989

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. FOLEY -- 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 Suffolk 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:

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

S 471-F. IMPOSITION OF TOBACCO PRODUCTS TAX IN SUFFOLK COUNTY. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, AND AT THE REQUEST OF ITS COUNTY EXECUTIVE AND LOCAL LEGISLATIVE BODY, SUFFOLK COUNTY, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IMPOSING IN SUFFOLK COUNTY TAXES ON CIGARETTES, CIGARS, OR SMOKING TOBACCO SUCH AS THE LEGISLATURE HAS OR WOULD HAVE POWER AND AUTHORITY TO IMPOSE. SUCH TAXES MAY BE COLLECTED AND ADMINISTERED BY THE FISCAL OFFICER OF SUCH COUNTY BY SUCH MEANS AND IN SUCH MANNER AS MAY BE PROVIDED BY SUCH LOCAL LAWS. THE TAXES MAY BE IMPOSED ON THE USE, SALE, EXCHANGE, TRANSFER, STORAGE, WITHDRAWAL, POSSESSION OR RETENTION OF CIGARETTES, CIGARS OR SMOKING TOBACCO, PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL AUTHORIZE THE IMPOSITION OF A TAX ON THE USE, RETENTION (OTHER THAN FOR SALE) OF TWO HUNDRED CIGARETTES OR LESS, OF FIFTY CIGARS OR LESS, OR OF TWO POUNDS OF SMOKING TOBACCO OR LESS BROUGHT INTO THE COUNTY ON, OR IN POSSESSION OF, ANY PERSON.

A. THE RATE OF SUCH TAX ON CIGARETTES SHALL NOT EXCEED ONE DOLLAR FOR EACH TEN CIGARETTES OR FRACTION THEREOF, PROVIDED HOWEVER, THAT IF A PACKAGE OF CIGARETTES CONTAINS MORE THAN TWENTY CIGARETTES, THE RATE OF TAX ON THE CIGARETTES IN SUCH PACKAGE IN EXCESS OF TWENTY SHALL NOT EXCEED FIFTY CENTS FOR EACH FIVE CIGARETTES OR FRACTION THEREOF. SUCH

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

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TAX IS INTENDED TO BE IMPOSED ONLY ONCE ON THE SAME PACKAGE OF CIGARETTES.

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

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

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

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

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

5. NO TAX IMPOSED PURSUANT TO THIS SECTION SHALL APPLY TO THE SALE OF CIGARETTES UNDER SUCH CIRCUMSTANCES THAT THIS STATE IS WITHOUT POWER TO IMPOSE SUCH TAX OR TO CIGARETTES SOLD TO THE UNITED STATES OR TO CIGARETTES 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.

6. NINETY PERCENT OF THE TAXES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED INTO THE GENERAL FUND OF SUFFOLK COUNTY. THE REMAINING TEN PERCENT OF THE TAXES COLLECTED SHALL BE DEPOSITED WITH THE SUFFOLK COUNTY DEPARTMENT OF HEALTH AND USED EXCLUSIVELY FOR TOBACCO CONTROL PROGRAMS. THE CHIEF FISCAL OFFICER OF THE COUNTY SHALL COMPUTE, ON A QUARTERLY BASIS, THE AMOUNT OF TAXES COLLECTED PURSUANT TO THIS SECTION AND SHALL CAUSE THE APPROPRIATE AMOUNT TO BE FORWARDED TO THE SUFFOLK COUNTY DEPARTMENT OF HEALTH.

S 2. This act shall take effect immediately.