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

5820--A

2009-2010 Regular Sessions

I N S E N A T E

June 8, 2009

Introduced by Sens. KRUEGER, OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law and chapter 235 of the laws of 1952, re-entitled by chapter 369 of the laws of 1959 "An act to enable any city of the state having a population of one million or more to adopt, and amend local laws, imposing certain specified types of taxes on cigarettes, cigars and smoking tobacco which the legislature has or would have power and authority to impose, to provide for the review of such taxes, and to limit the application of such local laws", in relation to little cigars

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

Section 1. Subdivision 1 of section 470 of the tax law, as amended by section 1 of part MM-1 of chapter 57 of the laws of 2008, is amended to read as follows:

1. "Cigarette." (a) Any roll for smoking made wholly or in part of tobacco or of any other substance wrapped in paper or in any other substance not containing tobacco, and (b) any roll for smoking made wholly or in part of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subdivision. [However, a roll will not be considered to be a cigarette for purposes of paragraph (b) of this subdivision if it is not treated as a cigarette for federal excise tax purposes under the applicable federal statute in effect on April first, two thousand eight.]

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

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S 2. Subdivision 2 of section 470 of the tax law, as amended by section 1 of part MM-1 of chapter 57 of the laws of 2008, is amended to read as follows:

2. "Tobacco products." Any cigar, INCLUDING A LITTLE CIGAR, or tobacco, other than cigarettes, intended for consumption by smoking, chewing, or as snuff.

S 3. Section 470 of the tax law is amended by adding a new subdivision 2-b to read as follows:

2-B. "LITTLE CIGAR." ANY ROLL FOR SMOKING MADE WHOLLY OR IN PART OF TOBACCO IF SUCH PRODUCT IS WRAPPED IN ANY SUBSTANCE CONTAINING TOBACCO, OTHER THAN NATURAL LEAF TOBACCO WRAPPER, AND WEIGHING NOT MORE THAN FOUR POUNDS PER THOUSAND, PROVIDED THAT IF A PRODUCT ALSO MEETS THE DEFINITION OF "CIGARETTE" UNDER THIS ARTICLE, IT SHALL BE TREATED AS A CIGARETTE AND NOT AS A LITTLE CIGAR.

S 4. Subdivision 19 of section 470 of the tax law, as added by section 1 of part MM-1 of chapter 57 of the laws of 2008, is amended to read as follows:

19. "Cigar." Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco that is a cigarette as defined in subdivision one of this section). [However, a roll will not be considered to be a cigar for purposes of this subdivision if it is not treated as a cigar for federal excise tax purposes under the applicable federal statute in effect on April first, two thousand eight.] "CIGAR" SHALL INCLUDE, EXCEPT WHERE EXPRESSLY EXCLUDED, ANY LITTLE CIGAR.

S 5. Paragraph (a) of subdivision 1 of section 471-b of the tax law, as amended by section 1 of part I1 of chapter 57 of the laws of 2009, is amended to read as follows:

(a) Such tax on tobacco products other than snuff AND LITTLE CIGARS shall be at the rate of forty-six percent of the wholesale price, and is intended to be imposed only once upon the sale of any tobacco products other than snuff AND LITTLE CIGARS.

S 6.Subdivision 1 of section 471-b of the tax law is amended by adding a new paragraph (c) to read as follows:

(C) SUCH TAX ON LITTLE CIGARS SHALL BE AT THE SAME RATE IMPOSED ON CIGARETTES UNDER THIS ARTICLE, AS THIS ARTICLE MAY BE AMENDED FROM TIME TO TIME, AND IS INTENDED TO BE IMPOSED ONLY ONCE UPON THE SALE OF ANY LITTLE CIGARS.

S 7. Paragraph (i) of subdivision (a) of section 471-c of the tax law, as amended by section 2 of part I1 of chapter 57 of the laws of 2009, is amended to read as follows:

(i) Such tax on tobacco products other than snuff AND LITTLE CIGARS shall be at the rate of forty-six percent of the wholesale price.

S 8. Paragraph (b) of subdivision 1 of section 1 of chapter 235 of the laws of 1952, re-entitled by chapter 369 of the laws of 1959 "An act to enable any city of the state having a population of one million or more to adopt, and amend local laws, imposing certain specified types of taxes on cigarettes, cigars and smoking tobacco which the legislature has or would have power and authority to impose, to provide for the review of such taxes, and to limit the application of such local laws," as amended by chapter 252 of the laws of 1963, is amended and a new paragraph (d) is added to read as follows:

(b) The rate of such tax on cigars OTHER THAN LITTLE CIGARS shall not exceed one cent on each SUCH cigar sold at a price of not less than seven cents and not more than fifteen cents; two cents on each SUCH cigar sold at a price of not less than sixteen cents and not more than twenty-nine cents; and three cents on each SUCH cigar sold at a price of thirty cents or more. Where more than one cigar OTHER THAN A LITTLE CIGAR is sold, whether or not in a package, box or container, such tax shall be applied to each SUCH cigar on the basis of the price applicable to each SUCH cigar. The tax ON CIGARS OTHER THAN LITTLE CIGARS shall not be applicable to SUCH cigars sold at a price less than seven cents a cigar.

(D) THE RATE OF SUCH TAX ON LITTLE CIGARS SHALL NOT EXCEED THE RATE OF TAX IMPOSED ON CIGARETTES UNDER PARAGRAPH (A) OF THIS SUBDIVISION, AS SUCH PARAGRAPH MAY BE AMENDED OR IN EFFECT FROM TIME TO TIME OR UNDER ANY SUCCESSOR PROVISION IMPOSING SUCH A TAX ON CIGARETTES.

S 9. Subdivision 2 of section 1 of chapter 235 of the laws of 1952, re-entitled by chapter 369 of the laws of 1959 "An act to enable any city of the state having a population of one million or more to adopt, and amend local laws, imposing certain specified types of taxes on cigarettes, cigars and smoking tobacco which the legislature has or would have power and authority to impose, to provide for the review of such taxes, and to limit the application of such local laws", as amended by section 5 of part MM-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(2) As used herein, the term "cigarette" shall mean and include (a) any roll for smoking made wholly or in part of tobacco or of any other substance wrapped in paper or in any other substance not containing tobacco, and (b) any roll for smoking made wholly or in part of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subdivision. [However, a roll will not be considered to be a cigarette for purposes of paragraph (b) of this subdivision if it is not treated as a cigarette for federal excise tax purposes under the applicable federal statute in effect on April first, two thousand eight.] The term "cigar" does not include any cigarette as defined in this subdivision. AS USED HEREIN, THE TERM "LITTLE CIGAR" SHALL MEAN AND INCLUDE ANY ROLL FOR SMOKING MADE WHOLLY OR IN PART OF TOBACCO IF SUCH PRODUCT IS WRAPPED IN ANY SUBSTANCE CONTAINING TOBACCO, OTHER THAN NATURAL LEAF TOBACCO WRAPPER, AND WEIGHS NOT MORE THAN FOUR POUNDS PER THOUSAND, PROVIDED THAT IF A PRODUCT ALSO MEETS THE DEFINITION OF "CIGARETTE" UNDER THIS SECTION, IT SHALL BE TREATED AS A CIGARETTE AND NOT AS A LITTLE CIGAR.

S 10. This act shall take effect July 1, 2010.