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

S. 8285 A. 11515

S E N A T E - A S S E M B L Y

June 21, 2010

IN SENATE -- Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend chapter 405 of the laws of 1999 amending the real property tax law relating to improving the administration of the school tax relief (STAR) program, in relation to the lottery game of Quick Draw (Part A); to amend chapter 349 of the laws of 1982 amending the multiple dwelling law relating to legalization of interim multiple dwellings in cities over one million, in relation to the effectiveness thereof; to amend the multiple dwelling law, in relation to owner obligations (Part B); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and to amend chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part C); and to amend the tax law, in relation to the cigarette tax rate and sales of cigarettes to Indian nations or tribes, and in relation to the tax on tobacco products, snuff and little cigars; to amend the administrative code of the city of New York and chapter 235 of the laws of 1952 relating to enabling 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 the definition of cigarettes (Part D)

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

LBD12284-03-0

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2010-2011 state fiscal year. Each component is wholly contained within a Part identified as Parts A through D. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Section 1 of part J of chapter 405 of the laws of 1999, amending the real property tax law relating to improving the administration of the school tax relief (STAR) program, as amended by section 1 of part I of chapter 111 of the laws of 2010, is amended to read as follows:

Section 1. Notwithstanding the provisions of article 5 of the general construction law, the provisions of the tax law amended by sections 94-a, 94-d and 94-g of chapter 2 of the laws of 1995 are hereby revived and shall continue in full force and effect as they existed on March 31, 1999 through [June 25] JULY 2, 2010, when upon such date they shall expire and be repealed. Sections 1, 2, 3, 4, and 5, and such part of section 10 of chapter 336 of the laws of 1999 as relates to providing for the effectiveness of such sections 1, 2, 3, 4 and 5 shall be nullified in effect on the effective date of this section, except that the amendments made to: paragraph (2) of subdivision a of section 1612 of the tax law by such section 1; and subdivision b of section 1612 of the tax law by such section 2; and the repeal of section 152 of chapter 166 of the laws of 1991 made by such section 5 shall continue to remain in effect.

S 2. This act shall take effect immediately.

PART B

Section 1. Section 3 of chapter 349 of the laws of 1982, amending the multiple dwelling law relating to the legalization of interim multiple dwellings in cities over one million, as amended by section 1 of part J of chapter 111 of the laws of 2010, is amended to read as follows:

S 3. Effective date and termination. This act shall take effect immediately. The provisions of this act and all regulations, orders and requirements thereunder shall terminate at the close of the calendar day [June 25] JULY 2, 2010.

S 2. Paragraph (v) of subdivision 1 of section 284 of the multiple dwelling law, as amended by section 2 of part J of chapter 111 of the laws of 2010, is amended to read as follows:

(v) An owner of an interim multiple dwelling who has not complied with the requirements of paragraph (i), (ii), (iii) or (iv) of this subdivision by the effective date of this paragraph as provided in chapter eighty-five of the laws of two thousand two shall hereafter be deemed in compliance with this subdivision provided that such owner filed an

alteration application by September first, nineteen hundred ninety-nine, took all reasonable and necessary action to obtain an approved alteration permit by March first, two thousand, achieves compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building by June first, two thousand ten or within twelve months from obtaining an approved alteration permit whichever is later, and takes all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for the residential portions of the building or structure by [June twenty-fifth] JULY SECOND, two thousand ten or within one month from achieving compliance with the aforementioned standards for the residential portions of the building, whichever is later.

S 3. This act shall take effect immediately; provided however, that the amendments to paragraph (v) of subdivision 1 of section 284 of the multiple dwelling law made by section two of this act shall not affect the repeal of such section and shall be deemed repealed therewith, pursuant to section 3 of chapter 349 of the laws of 1982, as amended.

PART C

Section 1. Paragraph (a) of subdivision 1 of section 1003 of the racing, pari-mutuel wagering and breeding law, as amended by section 1 of part L-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the board for a license so to do. Applications for licenses shall be in such form as may be prescribed by the board and shall contain such information or other material or evidence as the board may require. No license shall be issued by the board authorizing the simulcast transmission of thoroughbred races from a track located in Suffolk county. The fee for such licenses shall be five hundred dollars per simulcast facility per year payable by the licensee to the board for deposit into the general fund. Except as provided herein, the board shall not approve any application to conduct simulcasting into individual or group residences, homes or other areas for the purposes of or in connection with pari-mutuel wagering. The board may approve simulcasting into residences, homes or other areas to be conducted jointly by one or more regional off-track betting corporations and one or more of the following: a franchised corporation, thoroughbred racing corporation or a harness racing corporation or association; provided (i) the simulcasting consists only of those races on which pari-mutuel betting is authorized by this chapter at one or more simulcast facilities for each of the contracting off-track betting corporations which shall include wagers made in accordance with section one thousand fifteen, one thousand sixteen and one thousand seventeen of this article; provided further that the contract provisions or other simulcast arrangements for such simulcast facility shall be no less favorable than those in effect on January first, two thousand five; (ii) that each off-track betting corporation having within its geographic boundaries such residences, homes or other areas technically capable of receiving the simulcast signal shall be a contracting party; (iii) the distribution of revenues shall be subject to contractual agreement of the parties except that statutory payments to non-contracting parties,

if any, may not be reduced; provided, however, that nothing herein to the contrary shall prevent a track from televising its races on an irregular basis primarily for promotional or marketing purposes as found by the board. For purposes of this paragraph, the provisions of section one thousand thirteen of this article shall not apply. Any agreement authorizing an in-home simulcasting experiment commencing prior to May fifteenth, nineteen hundred ninety-five, may, and all its terms, be extended until June thirtieth, two thousand [ten] ELEVEN; provided, however, that any party to such agreement may elect to terminate such agreement upon conveying written notice to all other parties of such agreement at least forty-five days prior to the effective date of the termination, via registered mail. Any party to an agreement receiving such notice of an intent to terminate, may request the board to mediate between the parties new terms and conditions in a replacement agreement between the parties as will permit continuation of an in-home experiment until June thirtieth, two thousand [ten] ELEVEN; and (iv) no in-home simulcasting in the thoroughbred special betting district shall occur without the approval of the regional thoroughbred track.

S 2. Subparagraph (iii) of paragraph d of subdivision 3 of section 1007 of the racing, pari-mutuel wagering and breeding law, as amended by section 2 of part L-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(iii) Of the sums retained by a receiving track located in Westchester county on races received from a franchised corporation, for the period commencing January first, two thousand eight and continuing through June thirtieth, two thousand [ten] ELEVEN, the amount used exclusively for purses to be awarded at races conducted by such receiving track shall be computed as follows: of the sums so retained, two and one-half percent of the total pools. Such amount shall be increased or decreased in the amount of fifty percent of the difference in total commissions determined by comparing the total commissions available after July twenty-first, nineteen hundred ninety-five to the total commissions that would have been available to such track prior to July twenty-first, nineteen hundred ninety-five.

S 3. The opening paragraph of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as amended by section 3 of part L-1 of chapter 57 of the laws of 2009, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand [ten] ELEVEN and on any day regardless of whether or not a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack after June thirtieth, two thousand [ten] ELEVEN. On any day on which a franchised corporation has not scheduled a racing program but a thoroughbred racing corporation located within the state is conducting racing, every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that have entered into a written agreement with such facility's representative horsemen's organization, as approved by the board), one thousand eight, or one thousand nine of this article shall be authorized to accept wagers and display the live simulcast signal from thoroughbred tracks located in another state or foreign country subject to the following provisions:

S 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering and breeding law, as amended by section 4 of part L-1 of chapter 57 of the laws of 2009, is amended to read as follows:

1. The provisions of this section shall govern the simulcasting of races conducted at harness tracks located in another state or country during the period July first, nineteen hundred ninety-four through June thirtieth, two thousand [ten] ELEVEN. This section shall supersede all inconsistent provisions of this chapter.

S 5. The opening paragraph of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by section 5 of part L-1 of chapter 57 of the laws of 2009, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is not conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand [ten] ELEVEN. Every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven that have entered into a written agreement with such facility's representative horsemen's organization as approved by the board, one thousand eight or one thousand nine of this article shall be authorized to accept wagers and display the live full-card simulcast signal of thoroughbred tracks (which may include quarter horse or mixed meetings provided that all such wagering on such races shall be construed to be thoroughbred races) located in another state or foreign country, subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article:

S 6. The opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law, as amended by section 6 of part L-1 of chapter 57 of the laws of 2009, is amended to read as follows:

Notwithstanding any other provision of this chapter, for the period July twenty-fifth, two thousand one through September eighth, two thousand [nine] TEN, when a franchised corporation is conducting a race meeting within the state at Saratoga Race Course, every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that has entered into a written agreement with such facility's representative horsemen's organization as approved by the board), one thousand eight or one thousand nine of this article shall be authorized to accept wagers and display the live simulcast signal from thoroughbred tracks located in another state, provided that such facility shall accept wagers on races run at all in-state thoroughbred tracks which are conducting racing programs subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article.

S 7. Section 32 of chapter 281 of the laws of 1994, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting, as amended by section 7 of part L-1 of chapter 57 of the laws of 2009, is amended to read as follows:

S 32. This act shall take effect immediately and the pari-mutuel tax reductions in section six of this act shall expire and be deemed repealed on July 1, [2010] 2011; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration, or repeal of any provision of law amended by any section of this act, and such provisions shall be applied or qualified

or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law; provided further, however, that sections twenty-three and twenty-five of this act shall remain in full force and effect only until May 1, 1997 and at such time shall be deemed to be repealed.

S 8. Section 54 of chapter 346 of the laws of 1990, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, as amended by section 8 of part L-1 of chapter 57 of the laws of 2009, is amended to read as follows:

S 54. This act shall take effect immediately; provided, however, sections three through twelve of this act shall take effect on January 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breeding law, as added by section thirty-eight of this act, shall expire and be deemed repealed on July 1, [2010] 2011; and section eighteen of this act shall take effect on July 1, 2008 and sections fifty-one and fifty-two of this act shall take effect as of the same date as chapter 772 of the laws of 1989 took effect.

S 9. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as amended by section 9 of part L-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets be presented for payment before April first of the year following the year of their purchase, less an amount which shall be established and retained by such franchised corporation of between sixteen to seventeen per centum of the total deposits in pools resulting from on-track regular bets, and eighteen and one-half to twenty-one per centum of the total deposits in pools resulting from on-track multiple bets and twenty-six per centum of the total deposits in pools resulting from on-track exotic bets and sixteen to thirty-six per centum of the total deposits in pools resulting from on-track super exotic bets, and twenty-six to thirty-six per centum when such on-track super exotic betting pools are carried forward, plus the breaks. The retention rate to be established is subject to the prior approval of the racing and wagering board. Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. For purposes of this section, a "pick six bet" shall mean a single bet or wager on the outcomes of six races. The breaks are hereby defined as the odd cents over any multiple of five for payoffs greater than one dollar five cents but less than five dollars, over any multiple of ten for payoffs greater than five dollars but less than twenty-five dollars, over any multiple of twenty-five for payoffs greater than twenty-five dollars but less than two hundred fifty dollars, or over any multiple of fifty for payoffs over two hundred fifty dollars. Out of the amount so retained there shall be paid by such franchised corporation to the commissioner of taxation and finance, as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the race meetings held by such franchised corporation, the following percentages of the total pool for regular and multiple bets five per centum of regular bets and four per centum of multiple bets plus twenty

per centum of the breaks; for exotic wagers seven and one-half per centum plus twenty per centum of the breaks, and for super exotic bets seven and one-half per centum plus fifty per centum of the breaks. For the period June first, nineteen hundred ninety-five through September ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be three per centum and such tax on multiple wagers shall be two and one-half per centum, plus twenty per centum of the breaks. For the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such tax on all wagers shall be two and six-tenths per centum and for the period April first, two thousand one through December thirty-first, two thousand [ten] ELEVEN, such tax on all wagers shall be one and six-tenths per centum, plus, in each such period, twenty per centum of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one per centum of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three per centum of super exotic bets provided, however, that for the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such payment shall be six-tenths of one per centum of regular, multiple and exotic pools and for the period April first, two thousand one through December thirty-first, two thousand [ten] ELEVEN, such payment shall be seven-tenths of one per centum of such pools.

S 10. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as amended by section 10 of part L-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets be presented for payment before April first of the year following the year of their purchase, less an amount which shall be established and retained by such franchised corporation of between twelve to seventeen per centum of the total deposits in pools resulting from on-track regular bets, and fourteen to twenty-one per centum of the total deposits in pools resulting from on-track multiple bets and fifteen to twenty-five per centum of the total deposits in pools resulting from on-track exotic bets and fifteen to thirty-six per centum of the total deposits in pools resulting from on-track super exotic bets, plus the breaks. The retention rate to be established is subject to the prior approval of the racing and wagering board. Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. For purposes of this section, a "pick six bet" shall mean a single bet or wager on the outcomes of six races. The breaks are hereby defined as the odd cents over any multiple of five for payoffs greater than one dollar five cents but less than five dollars, over any multiple of ten for payoffs greater than five dollars but less than twenty-five dollars, over any multiple of twenty-five for payoffs greater than twenty-five dollars but less than two hundred fifty dollars, or over any multiple of fifty for payoffs over two hundred fifty dollars. Out of the amount so retained there shall be paid by such franchised corporation to the commissioner of taxation and finance, as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at

the race meetings held by such franchised corporation, the following percentages of the total pool for regular and multiple bets five per centum of regular bets and four per centum of multiple bets plus twenty per centum of the breaks; for exotic wagers seven and one-half per centum plus twenty per centum of the breaks, and for super exotic bets seven and one-half per centum plus fifty per centum of the breaks. For the period June first, nineteen hundred ninety-five through September ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be three per centum and such tax on multiple wagers shall be two and one-half per centum, plus twenty per centum of the breaks. For the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such tax on all wagers shall be two and six-tenths per centum and for the period April first, two thousand one through December thirty-first, two thousand [ten] ELEVEN, such tax on all wagers shall be one and six-tenths per centum, plus, in each such period, twenty per centum of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one per centum of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three per centum of super exotic bets provided, however, that for the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such payment shall be six-tenths of one per centum of regular, multiple and exotic pools and for the period April first, two thousand one through December thirty-first, two thousand [ten] ELEVEN, such payment shall be seven-tenths of one per centum of such pools.

S 11. Subdivision 5 of section 1012 of the racing, pari-mutuel wagering and breeding law, as amended by section 11 of part L-1 of chapter 57 of the laws of 2009, is amended to read as follows:

5. The provisions of this section shall expire and be of no further force and effect after June thirtieth, two thousand [ten] ELEVEN.

S 12. This act shall take effect immediately, provided that the amendments to paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law made by section nine of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 32 of chapter 115 of the laws of 2008, as amended, when upon such date the provisions of section ten of this act shall take effect.

PART D

Section 1. Subdivision 1 of section 471 of the tax law, as amended by section 1 of part RR-1 of chapter 57 of the laws of 2008, is amended to read as follows:

1. There is hereby imposed and shall be paid a tax on all cigarettes possessed in the state by any person for sale, except that no tax shall be imposed on cigarettes sold under such circumstances that this state is without power to impose such tax, INCLUDING SALES TO QUALIFIED INDIANS FOR THEIR OWN USE AND CONSUMPTION ON THEIR NATIONS' OR TRIBES' QUALIFIED RESERVATION, or sold to the United States or 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, to the extent provided in such regulations and policy statements of such an agency applicable to such sales. THE TAX IMPOSED BY THIS SECTION IS IMPOSED ON ALL CIGARETTES SOLD ON AN INDIAN RESERVATION TO NON-MEMBERS

OF THE INDIAN NATION OR TRIBE AND TO NON-INDIANS AND EVIDENCE OF SUCH TAX SHALL BE BY MEANS OF AN AFFIXED CIGARETTE TAX STAMP. INDIAN NATIONS OR TRIBES MAY ELECT TO PARTICIPATE IN THE INDIAN TAX EXEMPTION COUPON SYSTEM ESTABLISHED IN SECTION FOUR HUNDRED SEVENTY-ONE-E OF THIS ARTICLE WHICH PROVIDES A MECHANISM FOR THE COLLECTION OF THE TAX IMPOSED BY THIS SECTION ON CIGARETTE SALES ON QUALIFIED RESERVATIONS TO SUCH NON-MEMBERS AND NON-INDIANS AND FOR THE DELIVERY OF QUANTITIES OF TAX-EXEMPT CIGARETTES TO INDIAN NATIONS OR TRIBES FOR THE PERSONAL USE AND CONSUMPTION OF QUALIFIED MEMBERS OF THE INDIAN NATION OR TRIBE. IF AN INDIAN NATION OR TRIBE DOES NOT ELECT TO PARTICIPATE IN THE INDIAN TAX EXEMPTION COUPON SYSTEM, THE PRIOR APPROVAL SYSTEM SHALL BE THE MECHANISM FOR THE DELIVERY OF QUANTITIES OF TAX-EXEMPT CIGARETTES TO INDIAN NATIONS OR TRIBES FOR THE PERSONAL USE AND CONSUMPTION OF QUALIFIED MEMBERS OF THE INDIAN NATION OR TRIBE AS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION. Such tax on cigarettes shall be at the rate of [two] FOUR dollars and [seventy-five] THIRTY-FIVE cents for each twenty 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 be [sixty-eight] ONE DOLLAR AND EIGHT and three-quarters cents for each five cigarettes or fraction thereof. Such tax is intended to be imposed upon only one sale of the same package of cigarettes. It shall be presumed that all cigarettes within the state are subject to tax until the contrary is established, and the burden of proof that any cigarettes are not taxable hereunder shall be upon the person in possession thereof.

S 2. Subdivision 2 of section 471 of the tax law, as amended by chapter 6 of the laws of 1961, is amended to read as follows:

2. It is intended that the ultimate incidence of and liability for the tax shall be upon the consumer, and that any agent or dealer who shall pay the tax to the [tax commission] COMMISSIONER shall collect the tax from the purchaser or consumer. Except as hereinafter provided, the tax shall be advanced and paid by the agent. The agent shall be liable for the collection and payment of the tax on cigarettes imposed by this article and shall pay the tax to the [tax commission] COMMISSIONER by purchasing, under such regulations as [it] HE OR SHE shall prescribe, adhesive stamps of such designs and denominations as [it] HE OR SHE shall prescribe. The tax on cigarettes may also be paid by or through the use of metering machines if the [tax commission] COMMISSIONER so prescribes. Agents, located within or without the state, shall purchase stamps and affix such stamps in the manner prescribed to packages of cigarettes to be sold within the state, in which case any dealer subsequently receiving such stamped packages of cigarettes will not be required to purchase and affix stamps on such packages of cigarettes. [Notwithstanding any other provision of this article, the tax commission may by regulation provide that the tax on cigarettes imposed by this article shall be collected without the use of stamps] ALL CIGARETTES SOLD BY AGENTS AND WHOLESALERS TO INDIAN NATIONS OR TRIBES OR RESERVATION CIGARETTE SELLERS LOCATED ON AN INDIAN RESERVATION MUST BEAR A TAX STAMP.

S 3. Section 471 of the tax law is amended by adding a new subdivision 5 to read as follows:

5. PRIOR APPROVAL SYSTEM. (A) FOR ANY YEAR THAT THE RECOGNIZED GOVERNING BODY OF AN INDIAN NATION OR TRIBE HAS NOT ELECTED TO PARTICIPATE IN THE INDIAN TAX EXEMPTION COUPON SYSTEM ESTABLISHED IN SECTION FOUR HUNDRED SEVENTY-ONE-E OF THIS ARTICLE, PARAGRAPH (B) OF THIS SUBDIVISION PROVIDES FOR THE PRIOR APPROVAL SYSTEM TO BE THE MECHANISM AS TO

HOW INDIAN NATIONS OR TRIBES OR RESERVATION CIGARETTE SELLERS CAN PURCHASE ADEQUATE QUANTITIES OF TAX-EXEMPT CIGARETTES FOR THE PERSONAL USE AND CONSUMPTION OF QUALIFIED MEMBERS OF THE INDIAN NATION OR TRIBE ON THEIR NATIONS' OR TRIBES' QUALIFIED RESERVATION.

(B) IF AN INDIAN NATION OR TRIBE DOES NOT ELECT TO PARTICIPATE IN THE INDIAN TAX EXEMPTION COUPON SYSTEM, INDIAN NATIONS OR TRIBES OR RESERVATION CIGARETTE SELLERS MAY PURCHASE FROM NEW YORK STATE LICENSED CIGARETTE STAMPING AGENTS AND WHOLESALERS AN ADEQUATE QUANTITY OF TAX-EXEMPT CIGARETTES BASED ON PROBABLE DEMAND ON THEIR NATIONS' OR TRIBES' QUALIFIED RESERVATION FOR OFFICIAL NATION OR TRIBAL OR QUALIFIED INDIAN USE OR CONSUMPTION FROM AGENTS AND WHOLESALERS WHO HAVE RECEIVED PRIOR APPROVAL FROM THE DEPARTMENT. ALL SUCH PRE-APPROVED TAX EXEMPT CIGARETTES SHALL NONETHELESS BEAR A TAX STAMP. THE DEPARTMENT SHALL GRANT AGENTS AND WHOLESALERS PRIOR APPROVAL IN A MANNER AND FORM TO BE DETERMINED BY THE DEPARTMENT AND AS MAY BE PRESCRIBED BY REGULATION. THE DEPARTMENT SHALL ISSUE EXPEDITED REFUNDS OR CREDITS TO AGENTS WHENEVER THE DEPARTMENT GRANTS SUCH PRIOR APPROVALS. PROBABLE DEMAND SHALL BE DETERMINED AS PROVIDED BY SUBDIVISION TWO OF SECTION FOUR HUNDRED SEVENTY-ONE-E OF THIS ARTICLE AND AS MAY BE PRESCRIBED BY REGULATION.

S 4. Section 471 of the tax law is amended by adding a new subdivision 6 to read as follows:

6. TAX AGREEMENTS WITH INDIAN NATIONS OR TRIBES. IF AN INDIAN NATION OR TRIBE ENTERS INTO AN AGREEMENT WITH THE STATE AND THE LEGISLATURE APPROVES SUCH AGREEMENT OR IF AN INDIAN NATION OR TRIBE ENTERS INTO AN AGREEMENT WITH THE STATE THAT IS PART OF A STIPULATION AND ORDER APPROVED BY A FEDERAL COURT OF COMPETENT JURISDICTION REGARDING THE SALE AND DISTRIBUTION OF CIGARETTES ON THE NATION'S OR TRIBE'S QUALIFIED RESERVATION, THE TERMS OF SUCH AGREEMENT SHALL TAKE PRECEDENCE OVER THE PROVISIONS OF THIS ARTICLE AND EXEMPT SALES TO NON-MEMBERS OF THE TRIBE OR NATION AND NON-INDIANS BY SUCH NATION FROM SUCH TAXES TO THE EXTENT THAT SUCH TAXES ARE SPECIFICALLY REFERRED TO IN THE AGREEMENT, AND THE SALE OR DISTRIBUTION, INCLUDING TRANSPORTATION, OF ANY CIGARETTES TO THE NATION'S OR TRIBE'S QUALIFIED RESERVATION SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF SUCH AGREEMENT.

S 5. Section 471-a of the tax law, as amended by section 2 of part RR-1 of chapter 57 of the laws of 2008, is amended to read as follows:

S 471-a. Use tax on cigarettes. There is hereby imposed and shall be paid a tax on all cigarettes used in the state by any person, except that no tax shall be imposed (1) if the tax provided in section four hundred seventy-one of this article is paid, (2) on the use of cigarettes which are exempt from the tax imposed by said section, or (3) on the use of four hundred or less cigarettes, brought into the state on, or in the possession of, any person. Such tax on cigarettes shall be at the rate of [two] FOUR dollars and [seventy-five] THIRTY-FIVE cents for each twenty 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 be [sixty-eight] ONE DOLLAR AND EIGHT and three-quarters cents for each five cigarettes or fraction thereof. Within twenty-four hours after liability for the tax accrues, each such person shall file with the commissioner a return in such form as the commissioner may prescribe together with a remittance of the tax shown to be due thereon. For purposes of this article, the word "use" means the exercise of any right or power actual or constructive and shall include but is not limited to the receipt, storage or any keeping or retention for any length of time, but shall not include possession for sale. All other provisions of this

article if not inconsistent shall apply to the administration and enforcement of the tax imposed by this section in the same manner as if the language of said provisions had been incorporated in full into this section.

S 6. Subdivision 1 of section 471-e of the tax law, as added by section 2 of part K of chapter 61 of the laws of 2005, is amended to read as follows:

1. [General] INDIAN TAX EXEMPTION COUPON SYSTEM. (a) Notwithstanding any provision of this article to the contrary qualified Indians may purchase cigarettes for such qualified Indians' own use or consumption exempt from cigarette tax on their nations' or tribes' qualified reservations. However, such qualified Indians purchasing cigarettes off their reservations or on another nation's or tribe's reservation, and non-Indians making cigarette purchases on an Indian reservation shall not be exempt from paying the cigarette tax when purchasing cigarettes within this state. Accordingly, all cigarettes sold on an Indian reservation to non-members of the nation or tribe or to non-Indians shall be taxed, and evidence of such tax will be by means of an affixed cigarette tax stamp.

(b) In order to ensure an adequate quantity of cigarettes on Indian reservations which may be purchased by qualified Indians exempt from the cigarette tax, the RECOGNIZED GOVERNING BODY OF AN INDIAN NATION OR TRIBE MAY ANNUALLY ELECT TO PARTICIPATE IN THE INDIAN TAX EXEMPTION COUPON SYSTEM FOR THAT YEAR. IF THE RECOGNIZED GOVERNING BODY OF AN INDIAN NATION OR TRIBE ELECTS WITHIN THE TIME SPECIFIED BY THE DEPARTMENT TO PARTICIPATE IN THE INDIAN TAX EXEMPTION COUPON SYSTEM FOR THAT YEAR, THE department shall provide THE Indian [nations and tribes within this state] NATION OR TRIBE with Indian tax exemption coupons as set forth in this section. [A] IF THE RECOGNIZED GOVERNING BODY OF AN INDIAN NATION OR TRIBE DOES NOT ELECT TO PARTICIPATE IN THE INDIAN TAX EXEMPTION COUPON SYSTEM FOR THAT YEAR OR DOES NOT MAKE THIS ELECTION FOR THAT YEAR WITHIN THE TIME SPECIFIED BY THE DEPARTMENT, NO INDIAN TAX EXEMPTION COUPONS WILL BE PROVIDED TO THAT INDIAN NATION OR TRIBE FOR THAT YEAR. INSTEAD, FOR THAT YEAR, THE PRIOR APPROVAL SYSTEM SET FORTH IN PARAGRAPH (B) OF SUBDIVISION FIVE OF SECTION FOUR HUNDRED SEVENTY-ONE OF THIS ARTICLE SHALL BE USED. WHEN THE RECOGNIZED GOVERNING BODY OF AN INDIAN NATION OR TRIBE ELECTS TO USE THE INDIAN TAX EXEMPTION COUPON SYSTEM FOR A YEAR, AN INDIAN NATION OR TRIBE AND A reservation cigarette seller shall be able to present such Indian tax exemption coupons to a wholesale dealer licensed pursuant to this article in order to purchase stamped cigarettes exempt from the imposition of the cigarette tax. Qualified Indians may purchase cigarettes from a reservation cigarette seller exempt from the cigarette tax even though such cigarettes will have an affixed cigarette tax stamp.

S 7. Paragraph (a) of subdivision 2 of section 471-e of the tax law, as added by section 2 of part K of chapter 61 of the laws of 2005, is amended to read as follows:

(a) IF THE RECOGNIZED GOVERNING BODY OF AN INDIAN NATION OR TRIBE TIMELY ELECTS TO PARTICIPATE IN THE INDIAN TAX EXEMPTION COUPON SYSTEM FOR THAT YEAR, Indian tax exemption coupons shall be provided to the recognized governing body of [each] SUCH Indian nation or tribe to ensure that [each] SUCH Indian nation or tribe can obtain cigarettes upon which the tax will not be collected that are for the use or consumption by the nation or tribe or by the members of such nation or tribe. The Indian tax exemption coupons shall be provided to [the] SUCH Indian nations or tribes on a quarterly basis for each of the four quarters beginning with the first day of December, March, June, and Septem-

ber OF THAT YEAR. It is intended that the Indian nations or tribes will retain the amount of Indian tax exemption coupons they will need each quarter to purchase cigarettes for official nation or tribal use, and will distribute the remaining Indian tax exemption coupons to reservation cigarette sellers on such nations' or tribes' qualified reservations. Only Indian nations or tribes or reservation cigarette sellers on their qualified reservations may redeem such Indian tax exemption coupons pursuant to this section.

S 8. Paragraph (d) of subdivision 3 of section 471-e of the tax law, as added by section 2 of part K of chapter 61 of the laws of 2005, is amended to read as follows:

(d) [A wholesale dealer] WHOLESALE DEALERS shall SELL ONLY TAX-STAMPED CIGARETTES TO INDIAN NATIONS AND TRIBES, RESERVATION CIGARETTE SELLERS AND ALL OTHER PURCHASERS, BUT SHALL not collect the cigarette tax from any purchaser to the extent the purchaser gives such wholesale dealer Indian tax exemption coupons entitling the purchaser to purchase such quantities of cigarettes as allowed for on each such Indian tax exemption coupon without paying the cigarette tax.

S 9. Section 471-e of the tax law is amended by adding a new subdivision 6 to read as follows:

6. THE FAILURE OF THE DEPARTMENT TO ESTABLISH, ISSUE AND PROVIDE INDIAN TAX EXEMPTION COUPONS, PURSUANT TO SUBDIVISIONS ONE AND TWO OF THIS SECTION, OR TO PROMULGATE ANY RULES, REGULATIONS OR DIRECTIVES NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION, SHALL NOT RELIEVE WHOLESALE DEALERS OF THE OBLIGATION TO SELL ONLY TAX-STAMPED CIGARETTES TO INDIAN NATIONS AND TRIBES, AND TO RESERVATION CIGARETTE SELLERS.

S 10. Section 482 of the tax law, as amended by section 125-b of part C of chapter 58 of the laws of 2009, is amended as follows:

S 482. Deposit and disposition of revenue. (a) All taxes, fees, interest and penalties collected or received by the commissioner under this article and article twenty-A of this chapter shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter. (b) From the taxes, interest and penalties collected or received by the commissioner under sections four hundred seventy-one and four hundred seventy-one-a of this article, effective on and after March first, two thousand, forty-nine and fifty-five hundredths, and effective on and after February first, two thousand two, forty-three and seventy hundredths; and effective on and after May first, two thousand two, sixty-four and fifty-five hundredths; and effective on and after April first, two thousand three, sixty-one and twenty-two hundredths percent; and effective on and after June third, two thousand eight, seventy and sixty-three hundredths percent; AND EFFECTIVE ON AND AFTER JULY FIRST, TWO THOUSAND TEN, SEVENTY-SIX PERCENT collected or received under those sections must be deposited to the credit of the tobacco control and insurance initiatives pool to be established and distributed by the commissioner of health in accordance with section twenty-eight hundred seven-v of the public health law. (c) From the fees collected or received by the commissioner under subdivision two of section four hundred eighty-a of this article, effective on or after September first, two thousand nine, any monies collected or received under that section in excess of three million dollars must be deposited to the credit of the tobacco control and insurance initiatives pool to be distributed by the commissioner of health in accordance with section twenty-eight hundred seven-v of the public health law.

S 11. Within 60 days after the effective date of this section, the department of taxation and finance shall promulgate any rules and regu-

lations and take any other actions necessary to fully implement the provisions of section 471-e of the tax law, including, but not limited to, the establishment, issuance and provision of Indian tax exemption coupons, pursuant to subdivisions one and two of such section. Furthermore, within 90 days after the effective date of this section, the commissioner of taxation and finance shall submit a written report to the legislature explaining all actions taken by the department of taxation and finance to comply with the provisions of this section.

S 12. Any Indian nation or tribe, distributor, dealer, or interested party may commence a cause of action for injunctive relief ordering the department of taxation and finance to comply with the provisions of section eleven of this act.

S 13. Notwithstanding any other provision of law to the contrary, the tax due on cigarettes possessed in New York state as of the close of business on June 30, 2010 by any person for sale solely attributable to the increase imposed by the amendments to section 471 of the tax law, as amended by section one of this act, shall be paid by September 20, 2010, subject to such terms and conditions as the commissioner of taxation and finance shall prescribe.

S 14. 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], 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 BUT IS NOT MADE IN WHOLE OR IN PART OF TOBACCO.

S 15. 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 16. 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.

S 17. 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 subdivi-

sion 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 18. Paragraphs (a) and (b) of subdivision 1 of section 471-b of the tax law, paragraph (a) as amended by section 1 of part I-1 of chapter 57 of the laws of 2009, and paragraph (b) as added by section 2 of part QQ-1 of chapter 57 of the laws of 2008, are 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] SEVENTY-FIVE 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.

(b) Such tax on snuff shall be at the rate of [ninety-six cents] TWO DOLLARS per ounce and a proportionate rate on any fractional parts of an ounce, provided that cans or packages of snuff with a net weight of less than one ounce shall be taxed at the equivalent rate of cans or packages weighing one ounce. Such tax shall be computed based on the net weight as listed by the manufacturer, and is intended to be imposed only once upon the sale of any snuff.

S 19. 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 AND IS INTENDED TO BE IMPOSED ONLY ONCE UPON THE SALE OF ANY LITTLE CIGARS.

S 20. Paragraphs (i) and (ii) of subdivision (a) of section 471-c of the tax law, as amended by section 2 of part I-1 of chapter 57 of the laws of 2009, are 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] SEVENTY-FIVE percent of the wholesale price.

(ii) Such tax on snuff shall be at the rate of [ninety-six cents] TWO DOLLARS per ounce and a proportionate rate on any fractional parts of an ounce, provided that cans or packages of snuff with a net weight of less than one ounce shall be taxed at the equivalent rate of cans or packages weighing one ounce. Such tax shall be computed based on the net weight as listed by the manufacturer.

S 21. Subdivision (a) of section 471-c of the tax law is amended by adding a new paragraph (iii) to read as follows:

(III) SUCH TAX ON LITTLE CIGARS SHALL BE AT THE SAME RATE IMPOSED ON CIGARETTES UNDER THIS ARTICLE AND IS INTENDED TO BE IMPOSED ONLY ONCE UPON THE SALE OF ANY LITTLE CIGARS.

S 22. Subdivision 1 of section 11-1301 of the administrative code of the city of New York, as amended by section 3 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 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 which, 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], 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 BUT IS NOT MADE IN WHOLE OR IN PART OF TOBACCO.

S 23. Subdivision b of section 20-201 of the administrative code of the city of New York, as amended by section 4 of part MM-1 of chapter 57 of the laws of 2008, is amended to read as follows:

b. "Cigarette" shall mean [(1)] any roll for smoking made wholly or in part of tobacco or any other substance [wrapped in paper or in any other substance not containing tobacco, and (2) 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 one of this subdivision. However, a roll will not be considered to be a cigarette for purposes of paragraph two 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], 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 BUT IS NOT MADE IN WHOLE OR IN PART OF TOBACCO.

S 24. Subdivision 2 of section 1 of chapter 235 of the laws of 1952 relating to enabling 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], 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 BUT IS NOT MADE IN WHOLE OR IN PART OF TOBACCO.

S 25. Severability clause. If any clause, sentence, paragraph, subdivision, section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 26. This act shall take effect immediately; provided, that (a) section one of this act, as to the rate change, and sections five, ten, and thirteen of this act shall take effect July 1, 2010, and shall apply to all cigarettes possessed in the state by any person for sale and all cigarettes used in the state by any person on or after July 1, 2010; and (b) section one of this act, other than as to the rate change, and sections two through four and six through nine of this act will apply to quarters beginning on and after September 1, 2010; and (c) sections fourteen through twenty-four of this act shall take effect on August 1, 2010 as to tobacco products, snuff and little cigars which first become subject to taxation under article 20 of the tax law on or after such effective date.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective dates of Parts A through D of this act shall be as specifically set forth in the last section of such Parts.