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

2455

2009-2010 Regular Sessions

I N A S S E M B L Y

January 16, 2009

Introduced by M. of A. ORTIZ -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to imposing an additional tax on certain items; and to amend the state finance law, in relation to creating the childhood obesity prevention program fund

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 1105-d to read as follows:

S 1105-D. ADDITIONAL TAX ON CERTAIN FOOD AND DRINK ITEMS, COMPUTER GAMES, MOVIES, AND COMPACT DISCS. (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE TO THE CONTRARY, AN ADDITIONAL TAX OF ONE-QUARTER OF ONE PERCENT SHALL BE PAID UPON THE FOLLOWING:

(1) THE RECEIPTS FROM EVERY SALE OF FOOD AND DRINK THAT IS SUBJECT TO THE TAX IMPOSED BY SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE, EXCEPT FOR BOTTLED WATER;

(2) THE RECEIPTS FROM EVERY SALE OR RENTAL OF VIDEO AND COMPUTER GAMES ON GAME CARTRIDGES, COMPACT DISCS, DIGITAL VERSATILE DISCS, OR SIMILAR MEDIA, AND VIDEO GAME COMPONENTS OR ACCESSORIES, INCLUDING VIDEO GAME CONTROLLERS OR DEVICES USED TO PLAY VIDEO GAMES; AND

(3) THE RECEIPTS FROM EVERY SALE OR RENTAL OF ANALOG OR DIGITAL RECORDINGS OF FILMS ON A VIDEO TAPE, COMPACT DISC, DIGITAL VERSATILE DISC, OR OTHER SIMILAR MEDIA.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE TO THE CONTRARY, A TAX OF ONE PERCENT SHALL BE PAID UPON THE FOLLOWING:

(1) THE RECEIPTS FROM EVERY SALE OF FOOD AND DRINK, NOT SUBJECT TO THE TAX IMPOSED BY SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE, THAT ARE INCLUDED IN THE FOOD CATEGORIES LISTED AS SWEETS OR SNACKS ACCORDING TO THE UNITED STATES DEPARTMENT OF AGRICULTURE'S NATIONAL NUTRIENT DATABASE FOR STANDARD REFERENCE; AND

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

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(2) THE RECEIPTS FROM EVERY SALE OF ADMISSION TO MOTION PICTURE THEATERS.

S 2. Paragraph (b) of subdivision 9 of section 208 of the tax law is amended by adding a new subparagraph 20 to read as follows:

(20) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND NINE, EXPENDITURES FOR TELEVISION ADVERTISING FOR FOOD PRODUCTS, VIDEO GAMES AND RELATED EQUIPMENT, COMPUTER GAMES, AND MOTION PICTURE FILMS AND ANY VIDEO, DIGITAL VERSATILE DISC, OR SIMILAR MEDIA RECORDINGS OF SUCH FILMS, BROADCAST IN NEW YORK STATE DURING, IMMEDIATELY BEFORE, OR IMMEDIATELY AFTER TELEVISION SHOWS THAT HAVE AN AUDIENCE, AS MEASURED BY RECOGNIZED INDUSTRY STANDARDS, CONSISTING PREDOMINANTLY OF CHILDREN UNDER THE AGE OF EIGHTEEN.

S 3. The state finance law is amended by adding a new section 97-j to read as follows:

S 97-J. CHILDHOOD OBESITY PREVENTION PROGRAM FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF HEALTH A SPECIAL FUND TO BE KNOWN AS THE "CHILDHOOD OBESITY PREVENTION PROGRAM FUND".

2. SUCH FUND SHALL CONSIST OF ALL REVENUES COLLECTED OR RECEIVED BY THE COMMISSIONER OF TAXATION AND FINANCE PURSUANT TO SECTION ELEVEN HUNDRED FIVE-D AND SUBPARAGRAPH TWENTY OF PARAGRAPH (B) OF SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT OF THE TAX LAW, AND ALL OTHER MONEYS CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

3. THE MONEYS IN SUCH FUND SHALL BE MADE AVAILABLE TO THE COMMISSIONER OF HEALTH FOR THE PURPOSES OF THE CHILDHOOD OBESITY PREVENTION PROGRAM PURSUANT TO TITLE EIGHT OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW. MONEYS OF SUCH FUND SHALL BE PAID OUT OF THE FUND ON THE AUDIT AND WARRANT OF THE COMPTROLLER PURSUANT TO LAW.

S 4. This act shall take effect immediately.