

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. CAHILL, GOTTFRIED, FINCH -- Multi-Sponsored by --
M. of A. DINOWITZ, GALEF, JACOBS, KOON, WEISENBERG -- read once and
referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the form of tax stamps on
cigarettes

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

1 Section 1. Subdivision 1 of section 472 of the tax law, as amended by
2 chapter 629 of the laws of 1996, is amended to read as follows:
3 1. The commissioner shall [prescribe,] prepare and furnish stamps of
4 such denominations and quantities as may be necessary for the payment of
5 the tax on cigarettes imposed by this article, and may from time to time
6 and as often as he deems advisable provide for the issuance and exclu-
7 sive use of stamps of a new design and forbid the use of stamps of any
8 other design, in the manner and with the effect provided in section two
9 hundred seventy-four of this chapter. SUCH STAMPS SHALL MEASURE TWO
10 INCHES BY TWO INCHES AND BE AFFIXED TO THE PACKAGE OVERWRAP ON BOTH
11 SIDES OF A PACKAGE OF TWENTY CIGARETTES. EACH STAMP SHALL BEAR A COLOR
12 GRAPHIC DEPICTING AN ADVERSE EFFECT OF CIGARETTE USE AND INCLUDE A TOLL
13 FREE TELEPHONE NUMBER WHICH CALLERS MAY ACCESS FOR INFORMATION ON SMOK-
14 ING CESSATION. The commissioner shall make provisions for the sale of
15 such stamps at such places and at such times as he may deem necessary
16 and may license agents for such purpose. The commissioner may license
17 dealers in cigarettes, who maintain separate warehousing facilities for
18 the purpose of receiving and distributing cigarettes and conducting
19 their business, who have received commitments from at least two ciga-
20 rette manufacturers whose aggregate market share is at least forty
21 percent of the New York state cigarette market, and importers, exporters
22 and manufacturers of cigarettes, and other persons within or without the
23 state as agents to buy or affix stamps to be used in paying the tax

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

1 herein imposed, but an agent shall at all times have the right to
2 appoint the person in his employ who is to affix the stamps to any ciga-
3 rettes under the agent's control. The fee for filing such application
4 for an agent's license shall be one thousand five hundred dollars,
5 unless such fee has been paid during the preceding twelve months, in
6 which case, the fee for a new license shall be one thousand dollars. All
7 of the provisions of section four hundred eighty OF THIS ARTICLE relat-
8 ing to wholesale dealers' licenses, including the procedure for suspen-
9 sion, revocation, refusal to license and for hearings, except for para-
10 graphs (c) and (g) of subdivision one of such section, shall be
11 applicable to agents' licenses applied for or granted pursuant to this
12 section, as if such provisions had been set forth in full in this subdivi-
13 sion and had expressly referred to the applicant for, or the holder
14 of, an agent's license. Whenever the commissioner shall sell and deliver
15 to any such agent any such stamps, such agent shall be entitled to
16 receive as compensation for his services and expenses as such agent in
17 selling or affixing such stamps, and to retain out of the moneys to be
18 paid by him for such stamps, a commission on the par value thereof. The
19 commissioner is hereby authorized to prescribe a schedule of commis-
20 sions, not exceeding five per centum, allowable to such agent for buying
21 and affixing such stamps. Such schedule shall be uniform with respect to
22 the different types of stamps used, and may be on a graduated scale with
23 respect to the number of stamps purchased. The commissioner may, in his
24 discretion, permit an agent to pay for such stamps within thirty days
25 after the date of purchase and may require any such agent to file with
26 the department [of taxation and finance] a bond issued by a surety
27 company approved by the superintendent of insurance as to solvency and
28 responsibility and authorized to transact business in the state or other
29 security acceptable to the commissioner, in such amount as the commis-
30 sioner may fix, to secure the payment of any sums due from such agent
31 pursuant to this article. If securities are deposited as security under
32 this subdivision, such securities shall be kept in the custody of the
33 commissioner and may be sold by the commissioner if it becomes necessary
34 so to do in order to recover any sums due from such agent pursuant to
35 this article, but no such sale shall be had until after such agent shall
36 have had opportunity to litigate the validity of any tax if it elects so
37 to do. Upon any such sale, the surplus, if any, above the sums due under
38 this article shall be returned to such agent.

39 S 2. This act shall take effect on the one hundred twentieth day after
40 it shall have become a law.