

9395

I N A S S E M B L Y

(PREFILED)

January 6, 2010

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

AN ACT to amend the tax law, in relation to the refund of sales tax paid on the purchase price of registered bicycles; to amend the executive law, in relation to requiring the state consumer protection board to establish a bicycle theft prevention website; and to amend the general business law, in relation to the bicycle theft prevention registration notification

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

1 Section 1. The tax law is amended by adding a new section 1124 to
2 read as follows:
3 S 1124. REFUNDS AND CREDITS WITH RESPECT TO REGISTERED BICYCLES.
4 SUBJECT TO THE CONDITIONS AND LIMITATIONS PROVIDED FOR IN THIS SECTION,
5 A REFUND OR CREDIT SHALL BE ALLOWED FOR A TAX PAID PURSUANT TO SUBDIVI-
6 SION (A) OF SECTION ELEVEN HUNDRED FIVE OR SECTION ELEVEN HUNDRED TEN OF
7 THIS ARTICLE AND ANY LIKE TAX IMPOSED PURSUANT TO THE AUTHORITY OF ARTI-
8 CLE TWENTY-NINE OF THIS CHAPTER WITH RESPECT TO THE PURCHASE OF A BICY-
9 CLE IF THE PURCHASER OR USER REGISTERS THE BICYCLE WITH A BICYCLE REGIS-
10 TRATION PROGRAM ADMINISTERED BY THE NATIONAL BIKE REGISTRY OR LOCALLY
11 AFFILIATED BICYCLE REGISTRY. WHERE THE TAX ON THE SALE OR USE OF A
12 BICYCLE HAS BEEN PAID TO THE VENDOR, TO QUALIFY FOR SUCH REFUND OR CRED-
13 IT, SUCH BICYCLE MUST BE REGISTERED WITHIN THREE YEARS AFTER THE DATE
14 SUCH TAX WAS PAYABLE TO THE TAX COMMISSION BY THE VENDOR PURSUANT TO
15 SECTION ELEVEN HUNDRED THIRTY-SEVEN OF THIS ARTICLE. AN APPLICATION FOR
16 A REFUND OR CREDIT PURSUANT TO THIS SECTION MUST BE FILED WITH SUCH
17 COMMISSION WITHIN THE TIME PROVIDED BY SUBDIVISION (A) OF SECTION ELEVEN
18 HUNDRED THIRTY-NINE OF THIS ARTICLE. SUCH APPLICATION SHALL BE IN SUCH
19 FORM AS THE TAX COMMISSION MAY PRESCRIBE. WHERE AN APPLICATION FOR CRED-
20 IT HAS BEEN FILED, THE APPLICANT MAY IMMEDIATELY TAKE SUCH CREDIT ON THE
21 RETURN WHICH IS DUE COINCIDENT WITH OR IMMEDIATELY SUBSEQUENT TO THE
22 TIME THAT HE FILES HIS APPLICATION FOR CREDIT. HOWEVER, THE TAKING OF
23 THE CREDIT ON THE RETURN SHALL BE DEEMED TO BE PART OF THE APPLICATION

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

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1 FOR CREDIT AND SHALL BE SUBJECT TO THE PROVISIONS IN RESPECT TO APPLICA-
2 TIONS FOR CREDIT IN SECTION ELEVEN HUNDRED THIRTY-NINE OF THIS ARTICLE
3 AS PROVIDED IN SUBDIVISION (E) OF SUCH SECTION.

4 S 2. Subdivision (e) of section 1139 of the tax law, as amended by
5 chapter 962 of the laws of 1966, is amended to read as follows:

6 (e) The provisions of subdivisions (a), (b) and (c) of this section
7 shall be applicable to applications for refund or credit pursuant to
8 section eleven hundred nineteen [and], subdivision (e) of section eleven
9 hundred thirty-two, AND SECTION ELEVEN HUNDRED TWENTY-FOUR OF THIS ARTI-
10 CLE, except that an application for credit may be made as provided in
11 such section or subdivision and except that no interest shall be allowed
12 or paid upon any refund made or credit allowed pursuant to such section
13 or such subdivision.

14 S 3. Subdivision 3 of section 553 of the executive law is amended by
15 adding a new paragraph 1 to read as follows:

16 L. ESTABLISH A BICYCLE THEFT PREVENTION WEBSITE, THAT INCLUDES, BUT IS
17 NOT LIMITED TO, PROPER METHODS FOR PARKING AND LOCKING BICYCLES, THE
18 BENEFITS OF BICYCLE REGISTRATION, AND THE PROPER PROCEDURE FOR REPORTING
19 BICYCLE THEFT. SUCH WEBSITE OR WEBPAGE SHALL ALSO:

20 (I) INCLUDE AN INTERACTIVE FEATURE THAT ALLOWS CONSUMERS TO DETERMINE
21 IF A MUNICIPALITY LOCATED IN THIS STATE HAS ESTABLISHED A BICYCLE REGIS-
22 TRATION PROGRAM; AND

23 (II) REFERENCE THE AVAILABILITY OF BICYCLE REGISTRATION PROGRAMS
24 ADMINISTERED BY MUNICIPALITIES AND OTHER APPROPRIATE ENTITIES.

25 S 4. The general business law is amended by adding a new section 391-
26 cc to read as follows:

27 S 391-CC. BICYCLE THEFT PREVENTION REGISTRATION NOTIFICATION. 1. A.
28 NO PERSON, FIRM, ASSOCIATION OR CORPORATION ENGAGED IN THE BUSINESS OF
29 SELLING BICYCLES SHALL SELL ANY BICYCLE UNLESS SUCH PERSON, FIRM, ASSO-
30 CIATION OR CORPORATION PROVIDES THE FOLLOWING NOTICE TO CONSUMERS:

31 "REGISTER YOUR BICYCLE. FOR MORE INFORMATION ABOUT THE BENEFITS OF BICY-
32 CLE REGISTRATION AND BICYCLE REGISTRIES AVAILABLE TO YOU, CONTACT THE
33 NEW YORK STATE CONSUMER PROTECTION BOARD AT (INSERT THE CURRENT TELE-
34 PHONE NUMBER ESTABLISHED BY THE STATE CONSUMER PROTECTION BOARD FOR
35 RECEIVING INQUIRIES FROM CONSUMERS) OR (INSERT THE ADDRESS OF THE
36 WEBSITE CREATED PURSUANT TO PARAGRAPH ONE OF SUBDIVISION THREE OF
37 SECTION FIVE HUNDRED FIFTY-THREE OF THE EXECUTIVE LAW). STATE AND LOCAL
38 SALES TAX PAID ON THE PURCHASE PRICE OF YOUR BICYCLE MAY BE REFUNDED IF
39 YOUR BICYCLE IS REGISTERED."

40 B. SUCH NOTICE SHALL BE GIVEN BY PROMINENTLY POSTING A SIGN WHERE
41 BICYCLES ARE DISPLAYED AND/OR SOLD OR WHERE BICYCLES ARE OFFERED FOR
42 SALE THROUGH A PRINTED BICYCLE DISPLAY OR BICYCLE CATALOGUE AVAILABLE TO
43 CUSTOMERS IN RETAIL STORES. SUCH SIGN SHALL BE NO LESS THAN NINE INCHES
44 BY FOURTEEN INCHES USING LETTERS NO LESS THAN ONE-HALF INCH IN HEIGHT.
45 ANY PERSON, FIRM, ASSOCIATION OR CORPORATION ENGAGED IN THE BUSINESS OF
46 SELLING BICYCLES, MAY, IN LIEU OF POSTING A SIGN, MAKE AVAILABLE TO
47 CONSUMERS A WRITTEN NOTICE DISPLAYED IN A PROMINENT LOCATION WHERE BICY-
48 CLES ARE DISPLAYED AND/OR SOLD OR WHERE BICYCLES ARE OFFERED FOR SALE
49 THROUGH A PRINTED BICYCLE DISPLAY OR BICYCLE CATALOGUE AVAILABLE TO
50 CUSTOMERS IN RETAIL STORES. SUCH NOTICE SHALL BE NO LESS THAN FIVE
51 INCHES BY EIGHT INCHES USING LETTERS NO SMALLER THAN FOURTEEN POINT
52 TYPE.

53 2. ANY PERSON, FIRM, ASSOCIATION OR CORPORATION WHO OR WHICH VIOLATES
54 THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL BE SUBJECT TO A
55 CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR EACH SUCH
56 VIOLATION.

1 3. A. UPON ANY VIOLATION OF THE PROVISIONS OF SUBDIVISION ONE OF THIS
2 SECTION, AN APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME
3 OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING
4 JURISDICTION TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF
5 NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF THE
6 VIOLATION. IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR
7 JUSTICE THAT THE DEFENDANT HAS VIOLATED SUBDIVISION ONE OF THIS SECTION,
8 AN INJUNCTION MAY BE ISSUED BY THE COURT OR JUSTICE, ENJOINING AND
9 RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY
10 PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH
11 PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS
12 PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHT THOUSAND
13 THREE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT
14 RESTITUTION.

15 B. IN CONNECTION WITH AN APPLICATION MADE UNDER PARAGRAPH A OF THIS
16 SUBDIVISION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND TO
17 MAKE A DETERMINATION OF THE RELEVANT FACTS AND TO ISSUE SUBPOENAS IN
18 ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES.

19 4. THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION MAY BE ENFORCED
20 CONCURRENTLY BY THE DIRECTOR OF A MUNICIPAL CONSUMER AFFAIRS OFFICE, OR
21 BY THE TOWN ATTORNEY, CITY CORPORATION COUNSEL, OR OTHER LAWFUL DESIGNEE
22 OF A MUNICIPALITY OR LOCAL GOVERNMENT, AND ALL MONEYS COLLECTED THERE-
23 UNDER SHALL BE RETAINED BY SUCH MUNICIPALITY OR LOCAL GOVERNMENT.

24 S 5. This act shall take effect immediately; provided, however, that
25 sections one and two of this act shall apply to the purchase and regis-
26 tration of bicycles purchased on or after the effective date of this
27 act.