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I N   A S S E M B L Y

January 29, 2010

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

AN ACT to amend the tax law, in relation to the tax imposed upon alco-  
holic beverages

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

- 1     Section 1. Subdivision 16 of section 420 of the tax law, as added by  
2 chapter 891 of the laws of 1986, is amended to read as follows:  
3     16. "Brand owner" means any person who is a manufacturer of any liquor  
4 or wine for which a brand or trade name label has been registered with  
5 and approved by the state liquor authority pursuant to section one  
6 hundred seven-a of the alcoholic beverage control law OR BY THE ALCOHOL  
7 AND TOBACCO TAX AND TRADE BUREAU. For purposes of this subdivision the  
8 term manufacturer includes a distiller, [importer,] vintner or rectifi-  
9 er.
- 10     S 2. Section 426 of the tax law, as amended by chapter 891 of the laws  
11 of 1986, is amended to read as follows:  
12     S 426. Records to be kept by brand owners, distributors, owners and  
13 others.
- 14     1. THE BRAND OWNER, OR, WHERE THE BRAND OWNER HAS DESIGNATED ANOTHER  
15 PERSON TO ACT AS THE EXCLUSIVE AGENT OF THE BRAND OWNER, SUCH EXCLUSIVE  
16 AGENT OF THE BRAND OWNER, SHALL MAINTAIN A COMPLETE AND ACCURATE RECORD  
17 OF ALL THE DISTRIBUTORS OR HOLDERS OF A WHOLESALER'S LICENSE TO WHOM IT  
18 HAS SOLD LIQUOR OR WINE WHICH IS MANUFACTURED BY THE BRAND OWNER,  
19 TOGETHER WITH A RECORD OF THE NUMBER OF BOTTLES SOLD TO SUCH DISTRIBUTOR  
20 OR HOLDER OF A WHOLESALER'S LICENSE, THE SIZE OF THE BOTTLES AND ITS  
21 DESCRIPTION BY BRAND NAME. SUCH RECORD SHALL BE IN A FORM PRESCRIBED BY  
22 THE TAX COMMISSION, SHALL BE PRESERVED FOR THREE YEARS, AND SHALL BE  
23 OFFERED FOR INSPECTION AT ANY TIME UPON THE ORAL OR WRITTEN DEMAND OF  
24 THE COMMISSIONER OR HIS DULY AUTHORIZED AGENTS.
- 25     2. NO DISTRIBUTOR OR HOLDER OF A WHOLESALER'S LICENSE SHALL ORDER,  
26 PURCHASE OR RECEIVE ANY LIQUOR OR WINE FROM A SOURCE OTHER THAN A BRAND  
27 OWNER, OR WHERE THE BRAND OWNER HAS DESIGNATED ANOTHER PERSON TO ACT AS  
28 THE EXCLUSIVE AGENT OF THE BRAND OWNER, SUCH EXCLUSIVE AGENT OF THE

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

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1 BRAND OWNER. NO OWNER SHALL ORDER, PURCHASE OR RECEIVE LIQUOR OR WINE  
2 OTHER THAN FROM A DISTRIBUTOR OR HOLDER OF A WHOLESALER'S LICENSE WHO  
3 PURCHASED SUCH LIQUOR OR WINE FROM A BRAND OWNER, OR WHERE THE BRAND  
4 OWNER HAS DESIGNATED ANOTHER PERSON TO ACT AS THE EXCLUSIVE AGENT OF THE  
5 BRAND OWNER, SUCH EXCLUSIVE AGENT OF THE BRAND OWNER.

6 3. Every brand owner, distributor, HOLDER OF A WHOLESALER'S LICENSE,  
7 owner or other person shall keep a complete and accurate record of all  
8 purchases and sales or other dispositions of alcoholic beverages, and a  
9 complete and accurate record of the number of gallons of beers produced,  
10 manufactured, brewed or fermented and liters of all other alcoholic  
11 beverages produced, distilled, manufactured, brewed, compounded, mixed  
12 or fermented. Such records shall be in such form and contain such other  
13 information as the tax commission shall prescribe. Said commission, by  
14 rule or regulation, also may require the delivery of statements to  
15 purchasers of alcoholic beverages, and prescribe the matters to be  
16 contained therein. Such records and statements, unless required by the  
17 tax commission to be preserved for a longer period, shall be preserved  
18 for a period of one year and shall be offered for inspection at any time  
19 upon oral or written demand by the commissioner [of taxation and  
20 finance] or his duly authorized agents, and every such distributor,  
21 brand owner, owner or other person shall make such reports to the  
22 department [of taxation and finance] as may be required by the tax  
23 commission. Nothing in this section contained shall be construed to  
24 require the keeping of a record of the purchase or disposition of alco-  
25 holic beverages by a consumer thereof, except by a person who uses the  
26 same for commercial purposes, or of the sale of alcoholic beverages at  
27 retail.

28 S 3. This act shall take effect on the ninetieth day after it shall  
29 have become a law.