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

3394--B

2009-2010 Regular Sessions

I N  S E N A T E

March 18, 2009

Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to requiring certain dealers engaged in the retail sale of motor fuel to itemize federal, state and county taxes on customer receipts

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

Section 1. The general business law is amended by adding a new section 199-o to read as follows:

S 199-O. REQUIRE ITEMIZATION OF MOTOR FUEL TAXES. 1. ANY DEALER ENGAGED IN THE RETAIL SALE OF MOTOR FUEL SHALL ITEMIZE ALL FEDERAL, STATE AND COUNTY TAXES THAT ARE INCLUDED IN THE CURRENT MOTOR FUEL PRICE ON ANY PRINTED RECEIPT EVIDENCING A MOTOR FUEL PURCHASE PROVIDED TO CUSTOMERS AS PROVIDED IN SUBDIVISION TWO OF THIS SECTION. SUCH DEALER SHALL ALSO POST IN A CONSPICUOUS LOCATION, A NOTICE TO CUSTOMERS THAT AN ITEMIZED LIST OF ALL TAXES ON MOTOR FUEL IS AVAILABLE ON THEIR PRINTED RECEIPT. SUCH NOTICE SHALL BE NO LESS THAN NINE INCHES BY FOURTEEN INCHES USING LETTERS NO LESS THAN ONE-HALF INCH IN HEIGHT.

2. THE ITEMIZED RECEIPT REQUIRED PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL DISCLOSE, IN A CLEAR AND CONSPICUOUS MANNER, THE AMOUNT OR PERCENTAGE, AS THE CASE MAY BE, OF ALL APPLICABLE TAXES EXPRESSED AS THE AMOUNT OR PERCENTAGE OF SUCH TAXES PER GALLON OF MOTOR FUEL DISPENSED.

3. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE DEALERS THAT UTILIZE MOTOR FUEL DISPENSING DEVICES THAT ARE INCAPABLE OF PRINTING RECEIPTS TO RETROFIT, OR OTHERWISE RENDER SUCH DEVICES CAPABLE OF PRINT-

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

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ING RECEIPTS, OR INSTALL MOTOR FUEL DISPENSING DEVICES THAT ARE CAPABLE OF PRINTING RECEIPTS, IN ORDER TO COMPLY WITH THIS SECTION.

4. WHENEVER THERE IS A VIOLATION OF THIS SECTION, AN APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS SECTION, AN INJUNCTION MAY BE ISSUED BY THE COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY FURTHER VIOLATIONS, WITHOUT REQUIRING PROOF THAT ANY PROCEEDING HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITUTION. WHENEVER THE COURT DETERMINES THAT A VIOLATION OF THIS SECTION HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION. IN CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE RELEVANT FACTS TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES.

S 2. This act shall take effect one year after it shall have become a law.