

4989

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. FOLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to authorizing Suffolk county to impose a tax on tobacco products

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 471-f to
2 read as follows:

3 S 471-F. IMPOSITION OF TOBACCO PRODUCTS TAX IN SUFFOLK COUNTY. 1.
4 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, AND AT THE
5 REQUEST OF ITS COUNTY EXECUTIVE AND LOCAL LEGISLATIVE BODY, SUFFOLK
6 COUNTY, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED
7 AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IMPOSING IN SUFFOLK COUNTY
8 TAXES ON CIGARETTES, CIGARS, OR SMOKING TOBACCO SUCH AS THE LEGISLATURE
9 HAS OR WOULD HAVE POWER AND AUTHORITY TO IMPOSE. SUCH TAXES MAY BE
10 COLLECTED AND ADMINISTERED BY THE FISCAL OFFICER OF SUCH COUNTY BY SUCH
11 MEANS AND IN SUCH MANNER AS MAY BE PROVIDED BY SUCH LOCAL LAWS. THE
12 TAXES MAY BE IMPOSED ON THE USE, SALE, EXCHANGE, TRANSFER, STORAGE,
13 WITHDRAWAL, POSSESSION OR RETENTION OF CIGARETTES, CIGARS OR SMOKING
14 TOBACCO, PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL AUTHORIZE
15 THE IMPOSITION OF A TAX ON THE USE, RETENTION (OTHER THAN FOR SALE) OF
16 TWO HUNDRED CIGARETTES OR LESS, OF FIFTY CIGARS OR LESS, OR OF TWO
17 POUNDS OF SMOKING TOBACCO OR LESS BROUGHT INTO THE COUNTY ON, OR IN
18 POSSESSION OF, ANY PERSON.

19 A. THE RATE OF SUCH TAX ON CIGARETTES SHALL NOT EXCEED ONE DOLLAR FOR
20 EACH TEN CIGARETTES OR FRACTION THEREOF, PROVIDED HOWEVER, THAT IF A
21 PACKAGE OF CIGARETTES CONTAINS MORE THAN TWENTY CIGARETTES, THE RATE OF
22 TAX ON THE CIGARETTES IN SUCH PACKAGE IN EXCESS OF TWENTY SHALL NOT
23 EXCEED FIFTY CENTS FOR EACH FIVE CIGARETTES OR FRACTION THEREOF. SUCH

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

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1 TAX IS INTENDED TO BE IMPOSED ONLY ONCE ON THE SAME PACKAGE OF CIGA-
2 RETTES.

3 B. THE RATE OF SUCH TAX ON CIGARS SHALL NOT EXCEED ONE CENT ON EACH
4 CIGAR SOLD AT A PRICE OF NOT LESS THAN SEVEN CENTS AND NOT MORE THAN
5 FIFTEEN CENTS; SHALL NOT EXCEED TWO CENTS ON EACH CIGAR SOLD AT A PRICE
6 OF NOT LESS THAN SIXTEEN CENTS AND NOT MORE THAN TWENTY-NINE CENTS; AND
7 SHALL NOT EXCEED THREE CENTS ON EACH CIGAR SOLD AT A PRICE OF THIRTY
8 CENTS OR MORE. WHERE MORE THAN ONE CIGAR IS SOLD, WHETHER OR NOT IN A
9 PACKAGE, BOX OR CONTAINER, SUCH TAX SHALL BE APPLIED TO EACH CIGAR ON
10 THE BASIS OF THE PRICE APPLICABLE TO EACH CIGAR. THE TAX SHALL NOT BE
11 APPLICABLE TO CIGARS SOLD AT A PRICE LESS THAN SEVEN CENTS A CIGAR.

12 C. THE RATE OF SUCH TAX ON SMOKING TOBACCO SHALL NOT EXCEED ONE CENT
13 FOR EACH TWENTY CENTS OR FRACTION THEREOF OF THE PRICE AT WHICH SUCH
14 SMOKING TOBACCO IS SOLD.

15 2. AS USED IN THIS SECTION, THE TERM "CIGARETTE" SHALL MEAN AND
16 INCLUDE ANY ROLL FOR SMOKING MADE WHOLLY OR IN PART OF TOBACCO OR OF ANY
17 OTHER SUBSTANCE, IRRESPECTIVE OF SIZE OR SHAPE AND WHETHER OR NOT SUCH
18 TOBACCO OR SUBSTANCE IS FLAVORED, ADULTERATED OR MIXED WITH ANY OTHER
19 INGREDIENT, THE WRAPPER OR COVER OF WHICH IS MADE OF PAPER OR ANY OTHER
20 SUBSTANCE OR MATERIAL EXCEPT TOBACCO.

21 3. A TAX IMPOSED PURSUANT TO THIS SECTION SHALL HAVE APPLICATION ONLY
22 WITHIN THE TERRITORIAL LIMITS OF SUFFOLK COUNTY AND SHALL BE IN ADDITION
23 TO ANY AND ALL OTHER TAXES. THE METHOD OF COLLECTING ANY TAX IMPOSED
24 PURSUANT TO THIS SECTION, EITHER WITH OR WITHOUT ADHESIVE OR METER
25 STAMPS, SHALL BE SUBJECT TO THE APPROVAL OF THE DEPARTMENT.

26 4. ANY TAX IMPOSED PURSUANT TO THIS SECTION SHALL BE REFUNDED WHENEVER
27 ANY CIGARETTES UPON WHICH THE TAX HAS BEEN PAID HAVE BEEN SOLD AND
28 SHIPPED INTO ANOTHER STATE FOR SALE OR USE THERE.

29 5. NO TAX IMPOSED PURSUANT TO THIS SECTION SHALL APPLY TO THE SALE OF
30 CIGARETTES UNDER SUCH CIRCUMSTANCES THAT THIS STATE IS WITHOUT POWER TO
31 IMPOSE SUCH TAX OR TO CIGARETTES SOLD TO THE UNITED STATES OR TO CIGA-
32 RETTES SOLD TO OR BY A VOLUNTARY UNINCORPORATED ORGANIZATION OF THE
33 ARMED FORCES OF THE UNITED STATES OPERATING A PLACE FOR THE SALE OF
34 GOODS PURSUANT TO REGULATIONS PROMULGATED BY THE APPROPRIATE EXECUTIVE
35 AGENCY OF THE UNITED STATES.

36 6. NINETY PERCENT OF THE TAXES COLLECTED PURSUANT TO THIS SECTION
37 SHALL BE DEPOSITED INTO THE GENERAL FUND OF SUFFOLK COUNTY. THE REMAIN-
38 ING TEN PERCENT OF THE TAXES COLLECTED SHALL BE DEPOSITED WITH THE
39 SUFFOLK COUNTY DEPARTMENT OF HEALTH AND USED EXCLUSIVELY FOR TOBACCO
40 CONTROL PROGRAMS. THE CHIEF FISCAL OFFICER OF THE COUNTY SHALL COMPUTE,
41 ON A QUARTERLY BASIS, THE AMOUNT OF TAXES COLLECTED PURSUANT TO THIS
42 SECTION AND SHALL CAUSE THE APPROPRIATE AMOUNT TO BE FORWARDED TO THE
43 SUFFOLK COUNTY DEPARTMENT OF HEALTH.

44 S 2. This act shall take effect immediately.