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

6691

I N S E N A T E

January 27, 2010

Introduced by Sen. C. JOHNSON -- 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 the tax imposed upon alcoholic beverages

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

Section 1. Subdivision 16 of section 420 of the tax law, as added by chapter 891 of the laws of 1986, is amended to read as follows:

16. "Brand owner" means any person who is a manufacturer of any liquor or wine for which a brand or trade name label has been registered with and approved by the state liquor authority pursuant to section one hundred seven-a of the alcoholic beverage control law OR BY THE ALCOHOL AND TOBACCO TAX AND TRADE BUREAU. For purposes of this subdivision the term manufacturer includes a distiller, [importer,] vintner or rectifier.

S 2. Section 426 of the tax law, as amended by chapter 891 of the laws of 1986, is amended to read as follows:

S 426. Records to be kept by brand owners, distributors, owners and others.

1. THE BRAND OWNER, OR, WHERE THE BRAND OWNER HAS DESIGNATED ANOTHER PERSON TO ACT AS THE EXCLUSIVE AGENT OF THE BRAND OWNER, SUCH EXCLUSIVE AGENT OF THE BRAND OWNER, SHALL MAINTAIN A COMPLETE AND ACCURATE RECORD OF ALL THE DISTRIBUTORS OR HOLDERS OF A WHOLESALER'S LICENSE TO WHOM IT HAS SOLD LIQUOR OR WINE WHICH IS MANUFACTURED BY THE BRAND OWNER, TOGETHER WITH A RECORD OF THE NUMBER OF BOTTLES SOLD TO SUCH DISTRIBUTOR OR HOLDER OF A WHOLESALER'S LICENSE, THE SIZE OF THE BOTTLES AND ITS DESCRIPTION BY BRAND NAME. SUCH RECORD SHALL BE IN A FORM PRESCRIBED BY THE TAX COMMISSION, SHALL BE PRESERVED FOR THREE YEARS, AND SHALL BE OFFERED FOR INSPECTION AT ANY TIME UPON THE ORAL OR WRITTEN DEMAND OF THE COMMISSIONER OR HIS DULY AUTHORIZED AGENTS.

2. NO DISTRIBUTOR OR HOLDER OF A WHOLESALER'S LICENSE SHALL ORDER, PURCHASE OR RECEIVE ANY LIQUOR OR WINE FROM A SOURCE OTHER THAN A BRAND OWNER, OR WHERE THE BRAND OWNER HAS DESIGNATED ANOTHER PERSON TO ACT AS

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

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

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

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