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

9085--B

I N A S S E M B L Y

January 20, 2012

Introduced by M. of A. DINOWITZ, P. RIVERA -- read once and referred to the Committee on Ways and Means -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law and the executive law, in relation to roll-your-own cigarette machines

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

Section 1. Subdivision 1 of section 470 of the tax law, as amended by section 14 of part D of chapter 134 of the laws of 2010, is amended to read as follows:

1. "Cigarette." Any roll for smoking made wholly or in part of tobacco or of any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material but is not made in whole or in part of tobacco, INCLUDING ANY SUCH ROLL MADE BY OR WITH THE ASSISTANCE OF A MACHINE LOCATED AT A RETAIL ESTABLISHMENT IN WHICH CASE SUCH RETAIL ESTABLISHMENT SHALL BE DEEMED THE SELLER OF SUCH CIGARETTES.

S 2. The tax law is amended by adding a new section 473-c to read as follows:

S 473-C. FACILITATION OF THE PRODUCTION OF CIGARETTES. A RETAIL ESTABLISHMENT THAT MAKES AVAILABLE A MACHINE TO ENABLE ANY PERSON TO PROCESS AT THAT ESTABLISHMENT INDEPENDENT COMPONENTS INTO A CIGARETTE PURSUANT TO SECTION FOUR HUNDRED SEVENTY OF THIS ARTICLE, OR PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION ONE HUNDRED FIFTY-SIX-C OF THE EXECUTIVE LAW IS HEREBY DETERMINED TO BE FACILITATING THE PRODUCTION OF CIGARETTES, AND AS SUCH SHALL PAY BY RETURN THE TAX IMPOSED UNDER SECTION FOUR HUNDRED SEVENTY-ONE OF THIS ARTICLE ON THE CIGARETTES PROCESSED AT SUCH ESTABLISHMENT, SHALL MAKE ESCROW PAYMENTS PURSUANT TO THE PROVISIONS OF SECTION THIRTEEN HUNDRED NINETY-NINE-PP OF THE PUBLIC HEALTH LAW. THE DEPARTMENT SHALL PROMULGATE REGULATIONS THAT PROVIDE FOR A CREDIT

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

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AGAINST THE TAXES OWED UNDER SECTION FOUR HUNDRED SEVENTY-ONE OF THIS ARTICLE, IF A RETAIL ESTABLISHMENT DESCRIBED IN THIS SECTION PROVIDES EVIDENCE THAT THE TOBACCO USED TO MAKE THE CIGARETTES HAS ALREADY BEEN SUBJECT TO TAX UNDER SECTION FOUR HUNDRED SEVENTY-ONE-B OF THIS ARTICLE.

S 3. Paragraph a of subdivision 1 of section 156-c of the executive law, as added by chapter 284 of the laws of 2000, is amended to read as follows:

a. When used in this section, the word "cigarette" shall mean any roll for smoking made wholly or in part of tobacco or of any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco, INCLUDING ANY SUCH ROLL MADE BY OR WITH THE ASSISTANCE OF A MACHINE LOCATED AT A RETAIL ESTABLISHMENT IN WHICH CASE SUCH RETAIL ESTABLISHMENT SHALL BE DEEMED THE SELLER OF SUCH CIGARETTES.

S 4. This act shall take effect on the ninetieth day after it shall have become a law.