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

3127

2011-2012 Regular Sessions

I N S E N A T E

February 9, 2011

Introduced by Sen. OPPENHEIMER -- 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 and the state finance law, in relation to imposing a surcharge on plastic shopping bags used to transport every sale of tangible personal property by consumers

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

Section 1. The tax law is amended by adding a new section 1113 to read as follows:

S 1113. IMPOSITION OF SURCHARGE; PLASTIC SHOPPING BAGS. (A) THERE IS HEREBY IMPOSED AND THERE SHALL BE PAID A SURCHARGE OF FIVE CENTS UPON PLASTIC SHOPPING BAGS USED TO TRANSPORT EVERY SALE OF TANGIBLE PERSONAL PROPERTY BY CONSUMERS.

(B)(1) THE SURCHARGE IMPOSED, PURSUANT TO SUBDIVISION (A) OF THIS SECTION, SHALL APPLY AT THE POINT OF SALE IN SHOPS, SUPERMARKETS, SERVICE STATIONS AND ALL SALES OUTLETS. RETAILERS SHALL PASS ON THE FULL AMOUNT OF SUCH SURCHARGE AS A CHARGE TO THE CUSTOMER DURING HIS OR HER CHECKOUT.

(2) SUCH SURCHARGE SHALL BE ITEMIZED ON ALL INVOICES, RECEIPTS OR DOCKETS ISSUED TO CUSTOMERS AT THE POINT OF SALE.

(C) THE FOLLOWING SHALL BE EXEMPT FROM THE SURCHARGE IMPOSED PURSUANT TO SUBDIVISION (A) OF THIS SECTION:

(1) PLASTIC BAGS CONTAINING FRESH MEAT, FISH OR POULTRY;

(2) PLASTIC BAGS CONTAINING NON-PACKED FRUIT, NUTS OR VEGETABLES, CONFECTIONERY, DAIRY PRODUCTS, COOKED FOOD OR ICE;

(3) PLASTIC BAGS USED TO STORE PRODUCTS SOLD ON BOARD AIRCRAFT OR SHIPS;

(4) REUSABLE BAGS SOLD TO CUSTOMERS FOR A SUM NOT LESS THAN SEVENTY-FIVE CENTS; AND

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

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(5) ANY PLASTIC BAG BROUGHT TO THE STORE BY THE CUSTOMER TO BE USED DURING THE SALE OF TANGIBLE PERSONAL PROPERTY.

(D) IF ANY OTHER ITEM IS PLACED IN A PLASTIC BAG EXEMPT BY SUBDIVISION (C) OF THIS SECTION, SUCH CUSTOMER SHALL BE CHARGED THE FIVE CENT TAX DURING HIS OR HER CHECKOUT.

(E) PLASTIC BAGS USED FOR EVERY SALE OF TANGIBLE PERSONAL PROPERTY SHALL NOT BE LARGER THAN TWO HUNDRED FIFTY MILLIMETERS BY THREE HUNDRED FORTY-FIVE MILLIMETERS BY FOUR HUNDRED FIFTY MILLIMETERS.

(F) THE PROCEEDS COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED INTO THE GENERAL FUND; PROVIDED, HOWEVER, THAT THE FIRST SEVENTY-FIVE MILLION OF THE SURCHARGE COLLECTED PURSUANT TO THIS SUBDIVISION SHALL BE DEPOSITED INTO THE ENVIRONMENTAL PROTECTION FUND PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

S 2. Subdivision 3 of section 92-s of the state finance law, as amended by section 2 of part T of chapter 59 of the laws of 2009, is amended to read as follows:

3. Such fund shall consist of the amount of revenue collected within the state from the amount of revenue, interest and penalties deposited pursuant to section fourteen hundred twenty-one of the tax law, the amount of fees and penalties received from easements or leases pursuant to subdivision fourteen of section seventy-five of the public lands law and the money received as annual service charges pursuant to section four hundred four-l of the vehicle and traffic law, all moneys required to be deposited therein from the contingency reserve fund pursuant to section two hundred ninety-four of chapter fifty-seven of the laws of nineteen hundred ninety-three, all moneys required to be deposited pursuant to section thirteen of chapter six hundred ten of the laws of nineteen hundred ninety-three, repayments of loans made pursuant to section 54-0511 of the environmental conservation law, all moneys to be deposited from the Northville settlement pursuant to section one hundred twenty-four of chapter three hundred nine of the laws of nineteen hundred ninety-six, provided however, that such moneys shall only be used for the cost of the purchase of private lands in the core area of the central Suffolk pine barrens pursuant to a consent order with the Northville industries signed on October thirteenth, nineteen hundred ninety-four and the related resource restoration and replacement plan, the amount of penalties required to be deposited therein by section 71-2724 of the environmental conservation law, all moneys required to be deposited pursuant to article thirty-three of the environmental conservation law, all fees collected pursuant to subdivision eight of section 70-0117 of the environmental conservation law, [as added by a chapter of the laws of two thousand nine,] PROCEEDS FROM THE SURCHARGE COLLECTED PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THE TAX LAW, all moneys collected pursuant to title thirty-three of article fifteen of the environmental conservation law[, as added by a chapter of the laws of two thousand nine] and all other moneys credited or transferred thereto from any other fund or source pursuant to law. All such revenue shall be initially deposited into the environmental protection fund, for application as provided in subdivision five of this section.

S 3. This act shall take effect on the first of September next succeeding the date on which it shall have become a law.