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

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2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KLEIN, DILAN, GOLDEN, HASSELL-THOMPSON, KRUGER, SAVINO -- 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 requiring the use of encrypted counterfeit-resistant cigarette tax stamps or markers

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 472-a to read as follows:

S 472-A. PROVISION FOR ENHANCED CIGARETTE AND TOBACCO TAX COLLECTIONS. 1. PURSUANT TO THE POWERS VESTED IN THE COMMISSIONER UNDER THIS ARTICLE TO COLLECT TAXES ON CIGARETTES AND TOBACCO PRODUCTS, THE COMMISSIONER SHALL INCORPORATE AN ENHANCED SYSTEM TO SECURE THE COLLECTION OF SUCH TAXES DUE TO THE STATE. SUCH AN ENHANCED SYSTEM SHALL USE AN ENCRYPTED COUNTERFEIT-RESISTANT TAX STAMP OR OTHER MARKING SYSTEM TO INDICATE THAT THE TAXES ON SUCH CIGARETTE AND TOBACCO PRODUCTS HAVE BEEN PAID. SUCH SYSTEM SHALL BE COMPRISED OF AT LEAST THE FOLLOWING ITEMS:

(A) THE USE OF ENCRYPTED TAX STAMPS OR OTHER MARKINGS BY STAMPING AGENTS LICENSED PURSUANT TO SECTION FOUR HUNDRED SEVENTY-TWO OF THIS ARTICLE AND OTHER TAX COLLECTION SYSTEMS OR MARKERS USED BY THE COMMISSIONER TO COLLECT CIGARETTE AND TOBACCO PRODUCT TAXES. SUCH STAMPS OR MARKERS SHALL BE ENCRYPTED TO IDENTIFY, AT A MINIMUM:

(I) THE NAME AND ADDRESS OF THE LICENSED STAMPING AGENT AFFIXING THE STAMP OR OTHER MARKER;

(II) THE DATE SUCH STAMP OR OTHER MARKER WAS AFFIXED TO THE PRODUCT; AND

(III) THE DENOMINATED VALUE OF THE STAMP OR METER IMPRESSION.

(B) THE SECURE MANAGEMENT OF ANY DATA REQUIRED UNDER PARAGRAPH (A) OF THIS SUBDIVISION AND OTHER DATA AS MAY BE REQUIRED BY THE COMMISSIONER;

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

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(C) THE ENFORCEMENT OF SECTION FOUR HUNDRED SEVENTY-TWO OF THIS ARTICLE, INCLUDING SUCH DEVICES AS MAY BE USED BY THE DEPARTMENT AND OTHER STATE EMPLOYEES AUTHORIZED BY THE COMMISSIONER.

2. SUCH ENCRYPTED TAX STAMPS OR OTHER MARKERS SHALL:

(A) BE PRODUCED IN A PROVEN SECURE FACILITY AS CERTIFIED BY THE COMMISSIONER;

(B) INCORPORATE A MINIMUM OF FOUR LAYERS OF OVERT, SEMI-COVERT AND COVERT DATA;

(C) BE APPLIED BY MACHINES OR OTHER MEANS WHEREUPON THE ENCRYPTED DATA SHALL BE INSTANTANEOUSLY CAPTURED AND STORED BY AND FOR THE COMMISSIONER;

(D) BE READABLE AND TRACEABLE FROM THE POINT OF STAMP PRODUCTION TO SUCH POINT AS DEEMED APPROPRIATE BY THE COMMISSIONER; AND

(E) BE CAPABLE OF BEING READ BY A SCANNING OR SIMILAR DEVICE THAT CAN BE UTILIZED BY ENFORCEMENT AGENTS OF THE STATE AND OTHERS DEEMED APPROPRIATE BY THE COMMISSIONER.

3. SUCH SYSTEM SHALL BE PERIODICALLY UPDATED TO FURTHER MINIMIZE THE EVASION OF THE COLLECTION OF CIGARETTE AND TOBACCO TAXES DUE TO THE STATE.

4. EVERY WHOLESALE DEALER THAT IS A LICENSED AGENT TO BUY AND AFFIX STAMPS TO BE USED IN PAYING THE TAX IMPOSED UNDER THIS ARTICLE SHALL BE REQUIRED TO BEAR THE INITIAL COST AND MAINTENANCE NECESSARY FOR THE DEPARTMENT TO IMPLEMENT SUCH ENHANCED TAX COLLECTION SYSTEM.

S 2. The department of taxation and finance shall issue a request for proposals for the purpose of providing the system described in section 472-a of the tax law, as added by section one of this act. Bids from qualified vendors shall be received by the department of taxation and finance no later than 60 days following the issuance of the request for proposal. Any contract issued pursuant to this section shall be issued within 90 days following receipt of bids and installation of such system completed by the successful bidder within 180 days of the issuance of such contract.

S 3. This act shall take effect immediately, provided, however, that section two of this act shall take effect on the one hundred eightieth day after it shall have become a law; provided further that any product in the possession of a cigarette retail dealer on the effective date of this act and stamped to the commissioner of taxation and finance's satisfaction may continue to be offered for sale and sold to cigarette purchasers.