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I N   S E N A T E

February 3, 2012

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Introduced by Sen. PARKER -- 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 increasing the tax on alcohol

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

1     Section 1. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 1  
2     of section 424 of the tax law, paragraphs (a), (b), (c) and (d) as  
3     amended by section 1 of part X-1 of chapter 57 of the laws of 2009,  
4     paragraph (e) as amended by chapter 190 of the laws of 1990 and para-  
5     graph (f) as amended by chapter 508 of the laws of 1993, are amended and  
6     a new paragraph (h) is added to read as follows:  
7     (a) [Fourteen cents] TWENTY-FOUR CENTS per gallon upon beers;  
8     (b) [Thirty cents] FIFTY-ONE CENTS per gallon upon still wines, except  
9     cider containing more than three and two-tenths per centum of alcohol by  
10    volume, upon which the tax shall be [three and seventy-nine] FOUR  
11    hundredths cents per gallon;  
12    (c) [Thirty cents] FIFTY-ONE CENTS per gallon upon artificially carbo-  
13    nated sparkling wines, except artificially carbonated sparkling cider  
14    containing more than three and two-tenths per centum of alcohol by  
15    volume, upon which the tax shall be [three and seventy-nine] FOUR  
16    hundredths cents per gallon;  
17    (d) [Thirty cents] FIFTY-ONE CENTS per gallon upon natural sparkling  
18    wines, except natural sparkling cider containing more than three and  
19    two-tenths per centum of alcohol by volume, upon which the tax shall be  
20    [three and seventy-nine] FOUR hundredths cents per gallon;  
21    (e) [Sixty-seven] ONE DOLLAR AND TWENTY-THREE cents per liter upon  
22    liquors containing not more than twenty-four per centum of alcohol by  
23    volume except liquors containing not more than two per centum of alcohol  
24    by volume, upon which the tax shall be [one cent] TWO CENTS per liter;  
25    and  
26    (f) [One dollar] TWO DOLLARS and [seventy] TWENTY-SIX cents per liter  
27    upon all other liquors; when sold or used within this state, except when

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

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1 sold or used under such circumstances that this state is without power  
2 to impose such tax or when sold to the United States and except beers  
3 when sold to or by a voluntary unincorporated organization of the armed  
4 forces of the United States operating a place for the sale of goods  
5 pursuant to regulations promulgated by the appropriate executive agency  
6 of the United States, to the extent provided in such regulations, direc-  
7 tives and policy statements of such an agency applicable to such sales,  
8 and except when sold to professional foreign consuls-general, consuls  
9 and vice-consuls who are nationals of the state appointing them and who  
10 are assigned to foreign consulates in this state, provided that American  
11 consular officers of equal rank who are citizens of the United States  
12 and who exercise their official functions at American consulates in such  
13 foreign country are granted reciprocal exemptions; provided, however,  
14 that the commissioner may permit the sale of alcohol without tax to a  
15 holder of any industrial alcohol permit, alcohol permit or alcohol  
16 distributor's permit, issued by the state liquor authority, and by the  
17 holder of an alcohol distributor's permit, class A, issued by such  
18 authority to a holder of a distiller's license, class B, or a winery  
19 license, issued by such authority and may also permit the use of alcohol  
20 for any purpose other than the production of alcoholic beverages by such  
21 holders without tax; provided also that the commissioner may permit the  
22 sale of cider without tax by a holder of a cider producer's license  
23 issued by the state liquor authority to a holder of a cider producer's  
24 license or a cider wholesaler's license issued by such authority.

25 (H) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, ONE HUNDRED  
26 PERCENT OF TAXES, INTEREST, PENALTIES AND FEES COLLECTED OR RECEIVED BY  
27 THE COMMISSIONER UNDER PARAGRAPHS (A) THROUGH (F) OF THIS SUBDIVISION  
28 SHALL BE ALLOCATED TO THE GENERAL FUND.

29 S 2. Section 424 of the tax law is amended by adding a new subdivision  
30 7 to read as follows:

31 7. THE TAX IMPOSED BY SUBDIVISION ONE OF THIS SECTION SHALL BE  
32 ADJUSTED EFFECTIVE JULY FIRST OF EACH YEAR BY APPLYING TO SUCH TAX AN  
33 UPWARD OR DOWNWARD ADJUSTMENT, AS THE CASE MAY BE, USING AS THE FACTOR  
34 FOR SUCH ADJUSTMENT THE PERCENTAGE AMOUNT BY WHICH THE ALL ITEMS CONSUM-  
35 ER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) AS PREPARED BY THE UNITED  
36 STATES DEPARTMENT OF LABOR FOR THE FIRST CALENDAR QUARTER OF SUCH YEAR  
37 EXCEEDS OR IS LESS THAN SUCH INDEX FOR THE FIRST CALENDAR QUARTER OF THE  
38 PROCEEDING YEAR. THE COMMISSIONER SHALL PROMULGATE REGULATIONS SPECIFY-  
39 ING THE METHODOLOGY TO BE USED TO DETERMINE THE GOODS AND INVENTORY TO  
40 WHICH THE INCREASE SHALL APPLY EFFECTIVE EACH JULY FIRST, EXCEPT THAT,  
41 FOR AN INCREASE IN THE TAX PURSUANT TO THIS SUBDIVISION, SUCH REGU-  
42 LATIONS SHALL APPLY ONLY IF SUCH INCREASE IS GREATER THAN TEN PERCENT.

43 S 3. This act shall take effect April 1, 2013, provided, however, that  
44 any rules or regulations necessary to implement the provisions of this  
45 act may be promulgated and any procedures, forms, or instructions neces-  
46 sary for such implementation may be adopted and issued on or after the  
47 date this act shall have become a law. The commissioner of taxation and  
48 finance may take any steps necessary to implement this act prior to its  
49 effective date.