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

6393

I N S E N A T E

February 3, 2012

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:

Section 1. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 1 of section 424 of the tax law, paragraphs (a), (b), (c) and (d) as amended by section 1 of part X-1 of chapter 57 of the laws of 2009, paragraph (e) as amended by chapter 190 of the laws of 1990 and paragraph (f) as amended by chapter 508 of the laws of 1993, are amended and a new paragraph (h) is added to read as follows:

(a) [Fourteen cents] TWENTY-FOUR CENTS per gallon upon beers;

(b) [Thirty cents] FIFTY-ONE CENTS per gallon upon still wines, except cider containing more than three and two-tenths per centum of alcohol by volume, upon which the tax shall be [three and seventy-nine] FOUR hundredths cents per gallon;

(c) [Thirty cents] FIFTY-ONE CENTS per gallon upon artificially carbonated sparkling wines, except artificially carbonated sparkling cider containing more than three and two-tenths per centum of alcohol by volume, upon which the tax shall be [three and seventy-nine] FOUR hundredths cents per gallon;

(d) [Thirty cents] FIFTY-ONE CENTS per gallon upon natural sparkling wines, except natural sparkling cider containing more than three and two-tenths per centum of alcohol by volume, upon which the tax shall be [three and seventy-nine] FOUR hundredths cents per gallon;

(e) [Sixty-seven] ONE DOLLAR AND TWENTY-THREE cents per liter upon liquors containing not more than twenty-four per centum of alcohol by volume except liquors containing not more than two per centum of alcohol by volume, upon which the tax shall be [one cent] TWO CENTS per liter; and

(f) [One dollar] TWO DOLLARS and [seventy] TWENTY-SIX cents per liter 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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sold or used under such circumstances that this state is without power to impose such tax or when sold to the United States and except beers when sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States, to the extent provided in such regulations, directives and policy statements of such an agency applicable to such sales, and except when sold to professional foreign consuls-general, consuls and vice-consuls who are nationals of the state appointing them and who are assigned to foreign consulates in this state, provided that American consular officers of equal rank who are citizens of the United States and who exercise their official functions at American consulates in such foreign country are granted reciprocal exemptions; provided, however, that the commissioner may permit the sale of alcohol without tax to a holder of any industrial alcohol permit, alcohol permit or alcohol distributor's permit, issued by the state liquor authority, and by the holder of an alcohol distributor's permit, class A, issued by such authority to a holder of a distiller's license, class B, or a winery license, issued by such authority and may also permit the use of alcohol for any purpose other than the production of alcoholic beverages by such holders without tax; provided also that the commissioner may permit the sale of cider without tax by a holder of a cider producer's license issued by the state liquor authority to a holder of a cider producer's license or a cider wholesaler's license issued by such authority.

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

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

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

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