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

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I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. CAHILL, GOTTFRIED, FINCH -- Multi-Sponsored by -- M. of A. DINOWITZ, GALEF, JACOBS, WEISENBERG -- read once and referred to the Committee on Mental Health

AN ACT to amend the tax law, in relation to the form of tax stamps on cigarettes

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

Section 1. Subdivision 1 of section 472 of the tax law, as amended by chapter 629 of the laws of 1996, is amended to read as follows:

1. The commissioner shall [prescribe,] prepare and furnish stamps of such denominations and quantities as may be necessary for the payment of the tax on cigarettes imposed by this article, and may from time to time and as often as he deems advisable provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design, in the manner and with the effect provided in section two hundred seventy-four of this chapter. SUCH STAMPS SHALL MEASURE TWO INCHES BY TWO INCHES AND BE AFFIXED TO THE PACKAGE OVERWRAP ON BOTH SIDES OF A PACKAGE OF TWENTY CIGARETTES. EACH STAMP SHALL BEAR A COLOR GRAPHIC DEPICTING AN ADVERSE EFFECT OF CIGARETTE USE AND INCLUDE A TOLL FREE TELEPHONE NUMBER WHICH CALLERS MAY ACCESS FOR INFORMATION ON SMOKING CESSATION. The commissioner shall make provisions for the sale of such stamps at such places and at such times as he may deem necessary and may license agents for such purpose. The commissioner may license dealers in cigarettes, who maintain separate warehousing facilities for the purpose of receiving and distributing cigarettes and conducting their business, who have received commitments from at least two cigarette manufacturers whose aggregate market share is at least forty percent of the New York state cigarette market, and importers, exporters and manufacturers of cigarettes, and other persons within or without the state as agents to buy or affix stamps to be used in paying the tax

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

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herein imposed, but an agent shall at all times have the right to appoint the person in his employ who is to affix the stamps to any cigarettes under the agent's control. The fee for filing such application for an agent's license shall be one thousand five hundred dollars, unless such fee has been paid during the preceding twelve months, in which case, the fee for a new license shall be one thousand dollars. All of the provisions of section four hundred eighty OF THIS ARTICLE relating to wholesale dealers' licenses, including the procedure for suspension, revocation, refusal to license and for hearings, except for paragraphs (c) and (g) of subdivision one of such section, shall be applicable to agents' licenses applied for or granted pursuant to this section, as if such provisions had been set forth in full in this subdivision and had expressly referred to the applicant for, or the holder of, an agent's license. Whenever the commissioner shall sell and deliver to any such agent any such stamps, such agent shall be entitled to receive as compensation for his services and expenses as such agent in selling or affixing such stamps, and to retain out of the moneys to be paid by him for such stamps, a commission on the par value thereof. The commissioner is hereby authorized to prescribe a schedule of commissions, not exceeding five per centum, allowable to such agent for buying and affixing such stamps. Such schedule shall be uniform with respect to the different types of stamps used, and may be on a graduated scale with respect to the number of stamps purchased. The commissioner may, in his discretion, permit an agent to pay for such stamps within thirty days after the date of purchase and may require any such agent to file with the department [of taxation and finance] a bond issued by a surety company approved by the superintendent of insurance as to solvency and responsibility and authorized to transact business in the state or other security acceptable to the commissioner, in such amount as the commissioner may fix, to secure the payment of any sums due from such agent pursuant to this article. If securities are deposited as security under this subdivision, such securities shall be kept in the custody of the commissioner and may be sold by the commissioner if it becomes necessary so to do in order to recover any sums due from such agent pursuant to this article, but no such sale shall be had until after such agent shall have had opportunity to litigate the validity of any tax if it elects so to do. Upon any such sale, the surplus, if any, above the sums due under this article shall be returned to such agent.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.