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

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2011-2012 Regular Sessions

I N A S S E M B L Y

January 20, 2011

Introduced by M. of A. CLARK, FARRELL, AUBRY, BRENNAN, LENTOL, TITUS, COOK, ROBINSON, BENEDETTO -- Multi-Sponsored by -- M. of A. ARROYO, BOYLAND, DINOWITZ, GOTTFRIED, HEVESI, V. LOPEZ, MAGEE, MAYERSOHN, PHEFFER, PRETLOW, N. RIVERA, P. RIVERA, SCARBOROUGH, WEISENBERG -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development

AN ACT to amend the general municipal law, in relation to providing for an assessment on admission tickets for professional sporting events held within a city with a population of one million or more for the purpose of funding extracurricular activities in city public schools

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

Section 1. The general municipal law is amended by adding a new section 6-t to read as follows:

S 6-T. TICKET ASSESSMENT FOR PROFESSIONAL SPORTING EVENTS FOR USE BY CITY SCHOOL DISTRICT. 1. A CITY WITH A POPULATION OF ONE MILLION OR MORE ACTING THROUGH ITS LOCAL LEGISLATIVE BODY IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IMPOSING, IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, AN ASSESSMENT ON ADMISSION TICKETS FOR PROFESSIONAL SPORTING EVENTS HELD AT ALL LOCATIONS WITHIN SAID CITY.

2. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL MEAN OR INCLUDE:

(A) "ADMISSION TICKET." THE TERM "ADMISSION TICKET" SHALL MEAN ANY CHARGE FOR THE RIGHT OR PRIVILEGE TO ENTER AND OCCUPY A SEAT OR SPACE INCLUDING BUT NOT LIMITED TO A BOX SEAT OR SUITE WHETHER THE ADMISSION TICKET IS SOLD FOR AN INDIVIDUAL EVENT, AS A SEASON TICKET OR AS PART OF A SPECIAL ADMISSION TICKET PACKAGE AT A LOCATION FOR A SPORTING EVENT, OR A SERIES OF SPORTING EVENTS.

(B) "LOCATION." A PREDETERMINED OR SCHEDULED AREA WHERE PROFESSIONAL SPORTING EVENTS OCCUR FOR WHICH ANY ADMISSION CHARGE IS LEVIED.

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

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(C) "VENDOR." ANY PERSON, FIRM, CORPORATION, ASSOCIATION OR PARTNERSHIP, PROMOTER OR SPONSOR WHICH HOLDS PROFESSIONAL SPORTING EVENTS FOR WHICH ANY ADMISSION CHARGE IS LEVIED.

(D) "CITY." A CITY WITH A POPULATION OF ONE MILLION OR MORE.

(E) "SPORTING EVENT." ANY EVENT INVOLVING PROFESSIONAL ATHLETES, INCLUDING BUT NOT LIMITED TO, PROFESSIONAL TENNIS, BOXING AND WRESTLING MATCHES, BASEBALL, BASKETBALL, FOOTBALL, HOCKEY, SOCCER, VOLLEYBALL, RODEO, MOTOCROSS OR MOTOR VEHICLE OR TRUCK SHOWS OR RACES.

(F) "COMMISSIONER." THE COMMISSIONER OF FINANCE OF SAID CITY.

3. ANY LOCAL LAW ADOPTED PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL REQUIRE EVERY VENDOR HOLDING A SPORTING EVENT TO WHICH SUCH LAW IS APPLICABLE, TO REMIT AN ASSESSMENT OF THREE PERCENT OF THE PURCHASE PRICE OF EACH ADMISSION TICKET FOR EACH SUCH SPORTING EVENT. IN CASE OF FAILURE TO COLLECT SUCH ASSESSMENT ON SUCH TICKET PURCHASE THE SAME SHALL BE IMPOSED UPON THE VENDOR HOLDING SUCH SPORTING EVENT. SUCH ASSESSMENT SHALL BE PAID TO THE CITY EVERY MONTH. SUCH FUNDS SHALL BE REMITTED NO LATER THAN THIRTY DAYS AFTER THE LAST BUSINESS DAY OF THE MONTH. THE AMOUNT SO COLLECTED SHALL BE DEPOSITED IN THE GENERAL FUND OF THE CITY, AND SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVEN OF THIS SECTION.

4. EACH VENDOR REQUIRED TO PAY A SURCHARGE PURSUANT TO THIS SECTION SHALL BE ENTITLED TO RETAIN, AS AN ADMINISTRATIVE FEE, AN AMOUNT EQUAL TO TWO PERCENT OF ANY SUCH SURCHARGE CHARGED AGAINST AND ACTUALLY PAID BY SUCH VENDOR, PROVIDED THAT SUCH VENDOR FILES ANY REQUIRED RETURN OR REPORT AND PAYS SUCH SURCHARGE TO THE CHIEF FISCAL OFFICER OF SUCH CITY ON OR BEFORE ITS DUE DATE.

5. ANY LOCAL LAW ADOPTED PURSUANT TO THE AUTHORITY OF SUBDIVISION ONE OF THIS SECTION, TO THE EXTENT CONSISTENT WITH THIS SECTION, SHALL MAKE PROVISIONS NECESSARY AND APPROPRIATE FOR THE PROPER IMPOSITION, COLLECTION AND ADMINISTRATION OF THE ASSESSMENT HEREIN AUTHORIZED, INCLUDING, BUT NOT LIMITED TO, PROVISIONS:

(A) FOR THE FILING OF RETURNS;

(B) FOR THE MAKING OF REFUNDS;

(C) FOR THE MAINTENANCE, RETENTION AND INSPECTION OF RECORDS;

(D) FOR THE SUBPOENA OF PERSONS AND RECORDS AND THE ADMINISTRATION OF OATHS;

(E) FOR THE ENFORCEMENT OF COLLECTION BY ANY MEANS PROVIDED BY LAW, INCLUDING EXECUTION AND SALE BY THE SHERIFF OR OTHERWISE;

(F) FOR THE PROMULGATION BY THE CITY FOR THE EFFECTIVE ADMINISTRATION AND ENFORCEMENT OF THE SURCHARGE;

(G) FOR THE PAYMENT OF INTEREST AND PENALTIES IN THE CASE OF DELINQUENCY;

(H) FOR THE ENFORCEMENT OF SUCH LOCAL LAW BY APPROPRIATE PROCEEDINGS; AND

(I) FOR MAKING VIOLATIONS THEREOF MISDEMEANORS AND PRESCRIBING THE PUNISHMENT FOR SUCH VIOLATIONS BY CIVIL PENALTY, FINE, FORFEITURE, OR IMPRISONMENT, OR BY TWO OR MORE OF SUCH PUNISHMENTS.

6. (A) ANY FINAL DETERMINATION OF THE AMOUNT OF ANY ASSESSMENT PAYABLE HEREUNDER SHALL BE REVIEWABLE FOR ERROR, ILLEGALITY OR UNCONSTITUTIONALITY OR ANY OTHER REASON WHATSOEVER BY A PROCEEDING UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES IF THE PROCEEDING IS COMMENCED WITHIN NINETY DAYS AFTER THE GIVING OF THE NOTICE OF SUCH FINAL DETERMINATION, PROVIDED, HOWEVER, THAT ANY SUCH PROCEEDING SHALL NOT BE INSTITUTED UNLESS THE AMOUNT OF ANY ASSESSMENT SOUGHT TO BE REVIEWED, WITH SUCH INTEREST AND PENALTIES THEREON AS MAY BE PROVIDED FOR BY LOCAL LAW, SHALL FIRST BE DEPOSITED AND AN UNDERTAKING FILED, IN

SUCH AMOUNT AND WITH SUCH SURETIES AS A JUSTICE OF THE SUPREME COURT SHALL APPROVE TO THE EFFECT THAT IF SUCH PROCEEDING BE DISMISSED OR THE ASSESSMENT CONFIRMED, THE PETITIONER WILL PAY ALL COSTS AND CHARGES WHICH MAY ACCRUE IN THE PROSECUTION OF SUCH PROCEEDING.

(B) EXCEPT IN THE CASE OF A WILFULLY FALSE AND FRAUDULENT RETURN WITH INTENT TO EVADE THE ASSESSMENT, NO ADDITIONAL LEVY SHALL BE MADE WITH RESPECT TO THE ASSESSMENT IMPOSED UNDER THIS SECTION, AFTER THE EXPIRATION OF MORE THAN THREE YEARS FROM THE DATE OF THE FILING OF A RETURN, PROVIDED, HOWEVER, THAT WHERE NO RETURN HAS BEEN FILED AS PROVIDED BY LOCAL LAW, THE ASSESSMENT MAY BE LEVIED AT ANY TIME.

7. THE PROCEEDS SHALL BE DISTRIBUTED TO THE CITY BOARD OF EDUCATION IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION. THE BOARD SHALL UTILIZE SUCH PROCEEDS FOR THE IMPLEMENTATION AND MAINTENANCE OF EXTRACURRICULAR ATHLETICS AND THEIR SUPPORTING ENTITIES, INCLUDING, BUT NOT LIMITED TO, ATHLETIC TEAMS, SPORTING GOODS EQUIPMENT, UNIFORMS FOR TEAM SPORTS, TRANSPORTATION TO OUTSIDE FACILITIES OR GAMES, EXPENSES AND FEES FOR INTERSCHOOL AND INTRAMURAL SPORTS COMPETITIONS, NEGOTIATED RENTAL FEES FOR NON-SCHOOL ATHLETIC FACILITIES USED BY PUBLIC HIGH SCHOOLS, ATHLETIC TRAINING EQUIPMENT, CHEERLEADERS, AND MARCHING BANDS, IN ALL PUBLIC HIGH SCHOOLS LOCATED WITHIN THE CITY.

8. THIS SECTION IS ENACTED TO CARRY OUT THE PURPOSE OF PROVIDING AN ASSESSMENT ON ADMISSION TICKETS FOR PROFESSIONAL SPORTING EVENTS HELD WITHIN A CITY WITH A POPULATION OF ONE MILLION OR MORE, THE PROCEEDS OF SAID ASSESSMENT WHICH ARE TO BE USED AND APPLIED EXCLUSIVELY FOR THE PURPOSE OF FUNDING EXTRACURRICULAR ACTIVITIES IN CITY PUBLIC SCHOOLS. ALL INCREASES FROM THE PROCEEDS OF THE ASSESSMENT SHALL BE DEDICATED AS INCREASES IN THE FUNDS AVAILABLE FOR THE PURPOSES OF THIS SECTION.

9. THE BOARD OF EDUCATION OF ANY CITY COVERED BY THIS SECTION SHALL MAKE A REPORT TO THE GOVERNOR, MAJORITY LEADER OF THE SENATE AND SPEAKER OF THE ASSEMBLY DETAILING THE USE OF THE FUNDS OBTAINED AS A RESULT OF SAID ASSESSMENT. SAID REPORT SHALL BE MADE ON OR BEFORE THE FIRST OF MARCH OF EACH YEAR.

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