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

S. 7728 A. 10695

S E N A T E - A S S E M B L Y

June 15, 2012

IN SENATE -- Introduced by Sens. ZELDIN, GRIFFO, SEWARD, YOUNG, ROBACH, NOZZOLIO -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Brindisi, Lentol, Barrett, Bronson, Cymbrowitz, Gabryszak, Lifton, Lupardo, Magee, Millman, Morelle, Roberts, Russell, Schimminger, Skartados, Zebrowski) -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a credit under articles 9-A and 22 of such law for beer produced within the state by a taxpayer that is registered as a distributor under article 18 of the tax law; to amend the alcoholic beverage control law, in relation to the exemption from the beer label registration fee; and to repeal subdivision 6 of section 424 of the tax law, relating to the exemption for beer produced and sold within the state by certain distributors under article 18 of the tax law

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 37 to read as follows:

S 37. BEER PRODUCTION CREDIT. (A) GENERAL. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER, THAT IS REGISTERED AS A DISTRIBUTOR UNDER ARTICLE EIGHTEEN OF THIS CHAPTER, AND THAT PRODUCES SIXTY MILLION OR FEWER GALLONS OF BEER IN THIS STATE IN THE TAXABLE YEAR, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAXES IN THE AMOUNT SPECIFIED IN SUBDIVISION (B) OF THIS SECTION AND PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (C) OF THIS SECTION. PROVIDED, HOWEVER, THAT NO CREDIT SHALL BE ALLOWED FOR ANY BEER PRODUCED IN EXCESS OF FIFTEEN MILLION FIVE HUNDRED THOUSAND GALLONS IN THE TAXABLE YEAR. IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR SHAREHOLDER OF A NEW YORK S CORPORATION, THEN THE CAP IMPOSED BY THE PRECEDING SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT ALLOWED TO ALL

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

LBD12160-01-2

THE PARTNERS OR SHAREHOLDERS OF EACH SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED THAT CAP.

(B) THE AMOUNT OF THE CREDIT PER TAXPAYER PER TAXABLE YEAR (OR PRO RATA SHARE OF EARNED CREDIT IN THE CASE OF A PARTNERSHIP) FOR EACH GALLON OF BEER PRODUCED IN THIS STATE ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE SHALL BE DETERMINED AS FOLLOWS:

(1) FOR THE FIRST FIVE HUNDRED THOUSAND GALLONS OF BEER PRODUCED IN THIS STATE IN THE TAXABLE YEAR, THE CREDIT SHALL EQUAL FOURTEEN CENTS PER GALLON; AND

(2) FOR EACH GALLON OF BEER PRODUCED IN THIS STATE IN THE TAXABLE YEAR IN EXCESS OF FIVE HUNDRED THOUSAND GALLONS, THE CREDIT SHALL EQUAL FOUR AND ONE-HALF CENTS PER GALLON.

(C) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9-A: SECTION 210, SUBDIVISION 45.

(2) ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (UU).

S 2. Section 210 of the tax law is amended by adding a new subdivision 45 to read as follows:

45. BEER PRODUCTION CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-SEVEN OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. IN NO EVENT SHALL THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxiv) to read as follows:

(XXXIV) BEER PRODUCTION CREDIT UNDER SUBSECTION (UU)	AMOUNT OF CREDIT UNDER SUBDIVISION SUBDIVISION FORTY-FIVE OF SECTION TWO HUNDRED TEN

S 4. Section 606 of the tax law is amended by adding a new subsection (uu) to read as follows:

(UU) BEER PRODUCTION CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-SEVEN OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 5. Subdivision 6 of section 424 of the tax law is REPEALED.

S 6. Paragraph (g) of subdivision 4 of section 107-a of the alcoholic beverage control law, as amended by chapter 535 of the laws of 2005, is amended to read as follows:

(g) The authority shall exempt from such fee provisions the registration of each brand label used for beer that is produced in small size batches [on the licensed premises in batches] totaling fifteen hundred barrels of beer or less annually.

S 7. This act shall take effect immediately, and shall apply to taxable years beginning on or after January 1, 2012; provided, however that sections five and six of this act shall be deemed to have been in full force and effect on and after March 28, 2012.