

3123--A

2013-2014 Regular Sessions

I N S E N A T E

January 30, 2013

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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;

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

LBD06986-02-4

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

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

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

36 S 2. Section 424 of the tax law is amended by adding a new subdivision
37 6 to read as follows:

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

50 S 3. This act shall take effect April 1, 2015, provided, however, that
51 any rules or regulations necessary to implement the provisions of this
52 act may be promulgated and any procedures, forms, or instructions neces-
53 sary for such implementation may be adopted and issued on or after the
54 date this act shall have become a law. The commissioner of taxation and
55 finance may take any steps necessary to implement this act prior to its
56 effective date.