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

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2013-2014 Regular Sessions

I N  S E N A T E

July 19, 2013

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT establishing a temporary task force on black market cigarettes

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

Section 1. Legislative intent. The sale of black market, untaxed cigarettes has resulted in the loss of hundreds of millions of dollars in revenue to the state, robbing state health care and programs designed to help children. According to the Tax Foundation, a Washington D.C., business-oriented tax research organization, approximately 60.9 percentage of cigarettes sold in New York were smuggled in from other states. In addition, a study conducted by John Dunham & Associates on behalf of New York Association of Convenience Stores found that state taxes were not collected on one out of every two packs of cigarettes consumed in New York State in 2011.

The widely available black market cigarettes threaten national security and public safety of New Yorkers. Investigations conducted on federal, state and local levels revealed that proceeds from black market cigarettes are used to fuel organized crime and terrorist organizations, such as Hamas and Hezbollah. In addition, this criminal activity creates imbalanced and unfair business competition for law-abiding mom and pop stores and other businesses who do pay taxes. In light of the overwhelming growth in black market cigarettes and the inherent dangers of this unbridled criminal activity, it is imperative that we make concerted efforts to develop enhanced measures and strategies to fully address this issue.

It is the intent of the Legislature to create a temporary task force to effectively address the illegal tobacco sale and distribution of untaxed, unstamped and smuggled tobacco products in New York. The Task Force will be comprised of departments and agencies involved in tackling illicit tobacco and will examine and analyze currently existing laws, policies and programs to develop measures that can reduce and prevent black market tobacco in New York.

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

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S 2. 1. A temporary task force, to be known as the temporary task force on black market cigarettes, is hereby created to examine and investigate such issues related to sale and distribution in New York of tobacco products for which required tax has not been paid, including, but not limited to, unlawfully manufactured cigarettes, cigarettes smuggled from low-tax jurisdictions, and stolen tobacco products from convenience stores, cargos and truck hijacking. This task force will be comprised of appropriate state agency personnel, law enforcement authorities, and an expert in the fields of taxation. The task force will facilitate studying the root causes of rising black market cigarettes in New York and assess the economic, health, and public safety impact of illicit cigarette sales and distribution in this state.

2. Such temporary task force shall have the powers, including, but not limited to, to:

(a) conduct public hearings in furtherance of the performance of its duties under this act;

(b) issue subpoenas for and to compel attendance of witnesses and the production of books, records, documents and other relevant evidence;

(c) recommend legislation consistent with the purpose of this section;

(d) develop and support innovative law enforcement models to target and disrupt smuggling and distribution networks;

(e) develop and communicate messages for the general public, informing them of the serious consequences of purchasing black market cigarettes;

(f) educate private sector entities about the dangers of black market cigarettes; and

(g) develop measures and goals that will enable the task force and its partners to better gauge success in decreasing the black market in cigarettes.

3. The task force shall consist of 9 members as follows:

(a) the attorney general, or his or her designee thereof, shall chair the task force;

(b) commissioner of financial services, or his or her designee;

(c) commissioner of criminal justice services, or his or her designee;

(d) commissioner of health, or his or her designee;

(e) the governor shall appoint one member who shall be an expert in tobacco taxation;

(f) the temporary president of the senate and the speaker of the assembly shall each appoint one member to the task force who shall be a member of a state or local law enforcement agency; and

(g) the president of the Small Business Congress, Inc. or his or her designee and the commissioner of the New York City department of finance or his or her designee shall serve as non-voting members.

4. Four voting members of the temporary task force shall, at all times, constitute a quorum. Members shall receive no compensation for their services; members (including non-voting members) who are not governmental employees shall be reimbursed for their reasonable expenses incurred during the performance of their duties. Notwithstanding any inconsistent provision of any general, special or local law, no officer or employee of the state or of any political subdivision thereof shall forfeit his or her office or employment by reason of acceptance of appointment to the temporary task force.

5. Within one year of the effective date of this act, such temporary task force shall issue a report containing such findings and recommendations.

S 3. This act shall take effect immediately.