

1383

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 472 of the tax law, as amended by  
2 chapter 629 of the laws of 1996 and as further amended by section 104 of  
3 part A of chapter 62 of the laws of 2011, is amended to read as follows:  
4 1. The commissioner shall [prescribe,] prepare and furnish stamps of  
5 such denominations and quantities as may be necessary for the payment of  
6 the tax on cigarettes imposed by this article, and may from time to time  
7 and as often as he deems advisable provide for the issuance and exclu-  
8 sive use of stamps of a new design and forbid the use of stamps of any  
9 other design, in the manner and with the effect provided in section two  
10 hundred seventy-four of this chapter. SUCH STAMPS SHALL MEASURE TWO  
11 INCHES BY TWO INCHES AND BE AFFIXED TO THE PACKAGE OVERWRAP ON BOTH  
12 SIDES OF A PACKAGE OF TWENTY CIGARETTES. EACH STAMP SHALL BEAR A COLOR  
13 GRAPHIC DEPICTING AN ADVERSE EFFECT OF CIGARETTE USE AND INCLUDE A TOLL  
14 FREE TELEPHONE NUMBER WHICH CALLERS MAY ACCESS FOR INFORMATION ON SMOK-  
15 ING CESSATION. The commissioner shall make provisions for the sale of  
16 such stamps at such places and at such times as he may deem necessary  
17 and may license agents for such purpose. The commissioner may license  
18 dealers in cigarettes, who maintain separate warehousing facilities for  
19 the purpose of receiving and distributing cigarettes and conducting  
20 their business, who have received commitments from at least two ciga-  
21 rette manufacturers whose aggregate market share is at least forty  
22 percent of the New York state cigarette market, and importers, exporters  
23 and manufacturers of cigarettes, and other persons within or without the

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

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1 state as agents to buy or affix stamps to be used in paying the tax  
2 herein imposed, but an agent shall at all times have the right to  
3 appoint the person in his employ who is to affix the stamps to any ciga-  
4 rettes under the agent's control. The fee for filing such application  
5 for an agent's license shall be one thousand five hundred dollars,  
6 unless such fee has been paid during the preceding twelve months, in  
7 which case, the fee for a new license shall be one thousand dollars. All  
8 of the provisions of section four hundred eighty OF THIS ARTICLE relat-  
9 ing to wholesale dealers' licenses, including the procedure for suspen-  
10 sion, revocation, refusal to license and for hearings, except for para-  
11 graphs (c) and (g) of subdivision one of such section, shall be  
12 applicable to agents' licenses applied for or granted pursuant to this  
13 section, as if such provisions had been set forth in full in this subdivi-  
14 sion and had expressly referred to the applicant for, or the holder  
15 of, an agent's license. Whenever the commissioner shall sell and deliver  
16 to any such agent any such stamps, such agent shall be entitled to  
17 receive as compensation for his services and expenses as such agent in  
18 selling or affixing such stamps, and to retain out of the moneys to be  
19 paid by him for such stamps, a commission on the par value thereof. The  
20 commissioner is hereby authorized to prescribe a schedule of commis-  
21 sions, not exceeding five per centum, allowable to such agent for buying  
22 and affixing such stamps. Such schedule shall be uniform with respect to  
23 the different types of stamps used, and may be on a graduated scale with  
24 respect to the number of stamps purchased. The commissioner may, in his  
25 discretion, permit an agent to pay for such stamps within thirty days  
26 after the date of purchase and may require any such agent to file with  
27 the department [of taxation and finance] a bond issued by a surety  
28 company approved by the superintendent of financial services as to  
29 solvency and responsibility and authorized to transact business in the  
30 state or other security acceptable to the commissioner, in such amount  
31 as the commissioner may fix, to secure the payment of any sums due from  
32 such agent pursuant to this article. If securities are deposited as  
33 security under this subdivision, such securities shall be kept in the  
34 custody of the commissioner and may be sold by the commissioner if it  
35 becomes necessary so to do in order to recover any sums due from such  
36 agent pursuant to this article, but no such sale shall be had until  
37 after such agent shall have had opportunity to litigate the validity of  
38 any tax if it elects so to do. Upon any such sale, the surplus, if any,  
39 above the sums due under this article shall be returned to such agent.

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