

4761--B

2015-2016 Regular Sessions

I N S E N A T E

April 15, 2015

Introduced by Sen. FUNKE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 enacting the "New York state sportsmen's weekend act" and creating a limited exemption of the sale of certain firearms, ammunition, archery equipment and hunting supplies from state sales and compensating use taxes and granting municipalities the option to grant such limited exemption

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

1 Section 1. This act shall be known and may be cited as the "New York
2 state sportsmen's weekend act".
3 S 2. Subdivision (a) of section 1115 of the tax law is amended by
4 adding a new paragraph 44 to read as follows:
5 (44) FIREARMS, AMMUNITION, ARCHERY EQUIPMENT AND HUNTING SUPPLIES
6 DURING THE THREE-DAY PERIOD EACH YEAR COMMENCING ON THE THIRD FRIDAY OF
7 AUGUST, AND ENDING ON THE FOLLOWING MONDAY. FOR PURPOSES OF THIS PARAGRAPH
8 FIREARMS SHALL MEAN ANY PISTOL, REVOLVER, RIFLE OR SHOTGUN USED
9 FOR THE PREDOMINANT USE OF HUNTING, AS DETERMINED BY THE COMMISSIONER OF
10 THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION. AMMUNITION, ARCHERY
11 EQUIPMENT AND HUNTING SUPPLIES SHALL MEAN ANY CROSSBOWS, LONG BOWS AND
12 THEIR RESPECTIVE SUPPLIES USED FOR THE PREDOMINANT USE OF HUNTING, AS
13 DETERMINED BY THE COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL
14 CONSERVATION. THIS PARAGRAPH SHALL ONLY APPLY TO PISTOLS OR REVOLVERS ON
15 THE CONDITION THAT THE PURCHASING INDIVIDUAL HAS OBTAINED THE LICENSE
16 REQUIRED TO PURCHASE SUCH A FIREARM, PURSUANT TO SECTION 400.00 OF THE
17 PENAL LAW, PRIOR TO THE THREE-DAY PERIOD PROVIDED IN THIS PARAGRAPH.
18 S 3. Subdivision (b) of section 1107 of the tax law is amended by
19 adding a new clause 12 to read as follows:

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

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1 (12) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE EXEMPTION ON FIREARMS,
2 AMMUNITION, ARCHERY EQUIPMENT AND HUNTING SUPPLIES DURING THE THREE-DAY
3 PERIOD EACH YEAR COMMENCING ON THE THIRD FRIDAY OF AUGUST AND ENDING ON
4 THE FOLLOWING MONDAY, PROVIDED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION
5 (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE, SHALL BE APPLICA-
6 BLE PURSUANT TO A LOCAL LAW, ORDINANCE OR RESOLUTION ADOPTED BY A CITY
7 SUBJECT TO THE PROVISIONS OF THIS SECTION. SUCH CITY IS EMPOWERED TO
8 ADOPT OR REPEAL SUCH A LOCAL LAW, ORDINANCE OR RESOLUTION. SUCH ADOPTION
9 OR REPEAL SHALL ALSO BE DEEMED TO AMEND ANY LOCAL LAW, ORDINANCE OR
10 RESOLUTION ENACTED BY SUCH A CITY IMPOSING TAXES PURSUANT TO THE AUTHOR-
11 ITY OF SUBDIVISION (A) OF SECTION TWELVE HUNDRED TEN OF THIS CHAPTER.

12 S 4. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
13 amended by section 3 of part Z of chapter 59 of the laws of 2015, is
14 amended to read as follows:

15 (1) Either, all of the taxes described in article twenty-eight of this
16 chapter, at the same uniform rate, as to which taxes all provisions of
17 the local laws, ordinances or resolutions imposing such taxes shall be
18 identical, except as to rate and except as otherwise provided, with the
19 corresponding provisions in such article twenty-eight, including the
20 definition and exemption provisions of such article, so far as the
21 provisions of such article twenty-eight can be made applicable to the
22 taxes imposed by such city or county and with such limitations and
23 special provisions as are set forth in this article. The taxes author-
24 ized under this subdivision may not be imposed by a city or county
25 unless the local law, ordinance or resolution imposes such taxes so as
26 to include all portions and all types of receipts, charges or rents,
27 subject to state tax under sections eleven hundred five and eleven
28 hundred ten of this chapter, except as otherwise provided. (i) Any local
29 law, ordinance or resolution enacted by any city of less than one
30 million or by any county or school district, imposing the taxes author-
31 ized by this subdivision, shall, notwithstanding any provision of law to
32 the contrary, exclude from the operation of such local taxes all sales
33 of tangible personal property for use or consumption directly and
34 predominantly in the production of tangible personal property, gas,
35 electricity, refrigeration or steam, for sale, by manufacturing, proc-
36 essing, generating, assembly, refining, mining or extracting; and all
37 sales of tangible personal property for use or consumption predominantly
38 either in the production of tangible personal property, for sale, by
39 farming or in a commercial horse boarding operation, or in both; and,
40 unless such city, county or school district elects otherwise, shall omit
41 the provision for credit or refund contained in clause six of subdivi-
42 sion (a) or subdivision (d) of section eleven hundred nineteen of this
43 chapter. (ii) Any local law, ordinance or resolution enacted by any
44 city, county or school district, imposing the taxes authorized by this
45 subdivision, shall omit the residential solar energy systems equipment
46 and electricity exemption provided for in subdivision (ee), the commer-
47 cial solar energy systems equipment and electricity exemption provided
48 for in subdivision (ii) and the clothing and footwear exemption provided
49 for in paragraph thirty of subdivision (a) of section eleven hundred
50 fifteen of this chapter, unless such city, county or school district
51 elects otherwise as to either such residential solar energy systems
52 equipment and electricity exemption, such commercial solar energy
53 systems equipment and electricity exemption or such clothing and foot-
54 wear exemption. (III) ANY LOCAL LAW, ORDINANCE OR RESOLUTION ENACTED BY
55 ANY CITY, COUNTY OR SCHOOL DISTRICT, IMPOSING THE TAXES AUTHORIZED BY
56 THIS SUBDIVISION, SHALL OMIT THE FIREARMS, AMMUNITION, ARCHERY EQUIPMENT

1 AND HUNTING SUPPLIES EXEMPTION DURING THE THREE-DAY PERIOD EACH YEAR
2 COMMENCING ON THE THIRD FRIDAY OF AUGUST, AND ENDING ON THE FOLLOWING
3 MONDAY, AS PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF
4 SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER, UNLESS SUCH CITY, COUNTY
5 OR SCHOOL DISTRICT ELECTS OTHERWISE; PROVIDED THAT IF SUCH A CITY HAVING
6 A POPULATION OF ONE MILLION OR MORE ENACTS THE RESOLUTION DESCRIBED IN
7 SUBDIVISION (Q) OF THIS SECTION OR REPEALS SUCH RESOLUTION, SUCH REPEAL
8 OR RESOLUTION SHALL ALSO BE DEEMED TO AMEND ANY LOCAL LAW, ORDINANCE OR
9 RESOLUTION ENACTED BY SUCH A CITY IMPOSING SUCH TAX PURSUANT TO THE
10 AUTHORITY OF THIS SUBDIVISION, WHETHER OR NOT SUCH TAXES ARE SUSPENDED
11 AT THE TIME SUCH CITY ENACTS ITS RESOLUTION PURSUANT TO SUBDIVISION (Q)
12 OF THIS SECTION OR AT THE TIME OF ANY SUCH REPEAL; PROVIDED FURTHER THAT
13 ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION AND SECTION ELEVEN HUNDRED
14 SEVEN OF THIS CHAPTER, AS DEEMED TO BE AMENDED IN THE EVENT A CITY OF
15 ONE MILLION OR MORE ENACTS A RESOLUTION PURSUANT TO THE AUTHORITY OF
16 SUBDIVISION (Q) OF THIS SECTION, SHALL BE FURTHER AMENDED, AS PROVIDED
17 IN SECTION TWELVE HUNDRED EIGHTEEN OF THIS SUBPART, SO THAT THE
18 FIREARMS, AMMUNITION, ARCHERY EQUIPMENT AND HUNTING SUPPLIES EXEMPTION
19 DURING THE THREE-DAY PERIOD EACH YEAR COMMENCING ON THE THIRD FRIDAY OF
20 AUGUST, AND ENDING ON THE FOLLOWING MONDAY, IN ANY SUCH LOCAL LAW,
21 ORDINANCE OR RESOLUTION OR IN SECTION ELEVEN HUNDRED SEVEN OF THIS CHAP-
22 TER IS THE SAME AS THE STATE FIREARMS, AMMUNITION, ARCHERY EQUIPMENT AND
23 HUNTING SUPPLIES EXEMPTION DURING THE THREE-DAY PERIOD EACH YEAR
24 COMMENCING ON THE THIRD FRIDAY OF AUGUST, AND ENDING ON THE FOLLOWING
25 MONDAY, IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN
26 HUNDRED FIFTEEN OF THIS CHAPTER.

27 S 5. Subdivision (d) of section 1210 of the tax law, as amended by
28 section 4-a of part Z of chapter 59 of the laws of 2015, is amended to
29 read as follows:

30 (d) A local law, ordinance or resolution imposing any tax pursuant to
31 this section, increasing or decreasing the rate of such tax, repealing
32 or suspending such tax, exempting from such tax the energy sources and
33 services described in paragraph three of subdivision (a) or of subdivi-
34 sion (b) of this section or changing the rate of tax imposed on such
35 energy sources and services or providing for the credit or refund
36 described in clause six of subdivision (a) of section eleven hundred
37 nineteen of this chapter, or electing or repealing the exemption for
38 residential solar equipment and electricity in subdivision (ee) of
39 section eleven hundred fifteen of this article, or the exemption for
40 commercial solar equipment and electricity in subdivision (ii) of
41 section eleven hundred fifteen of this article must go into effect only
42 on one of the following dates: March first, June first, September first
43 or December first; provided, that a local law, ordinance or resolution
44 providing for the exemption described in paragraph thirty of subdivision
45 (a) of section eleven hundred fifteen of this chapter or repealing any
46 such exemption or a local law, ordinance or resolution providing for a
47 refund or credit described in subdivision (d) of section eleven hundred
48 nineteen of this chapter or repealing such provision so provided must go
49 into effect only on March first; PROVIDED FURTHER THAT A LOCAL LAW,
50 ORDINANCE OR RESOLUTION PROVIDING FOR THE EXEMPTION DESCRIBED IN PARA-
51 GRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF
52 THIS CHAPTER OR REPEALING ANY SUCH EXEMPTION SO PROVIDED AND A RESOL-
53 UTION ENACTED PURSUANT TO THE AUTHORITY OF SUBDIVISION (Q) OF THIS
54 SECTION PROVIDED SUCH EXEMPTION OR REPEALING SUCH EXEMPTION SO PROVIDED
55 MAY GO INTO EFFECT IMMEDIATELY. No such local law, ordinance or resol-
56 ution shall be effective unless a certified copy of such law, ordinance

1 or resolution is mailed by registered or certified mail to the commis-
2 sioner at the commissioner's office in Albany at least ninety days prior
3 to the date it is to become effective. However, the commissioner may
4 waive and reduce such ninety-day minimum notice requirement to a mailing
5 of such certified copy by registered or certified mail within a period
6 of not less than thirty days prior to such effective date if the commis-
7 sioner deems such action to be consistent with the commissioner's duties
8 under section twelve hundred fifty of this article and the commissioner
9 acts by resolution. Where the restriction provided for in section twelve
10 hundred twenty-three of this article as to the effective date of a tax
11 and the notice requirement provided for therein are applicable and have
12 not been waived, the restriction and notice requirement in section
13 twelve hundred twenty-three of this article shall also apply.

14 S 6. Section 1210 of the tax law is amended by adding a new subdivi-
15 sion (q) to read as follows:

16 (Q) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDI-
17 NANCE OR RESOLUTION TO THE CONTRARY:

18 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE
19 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN
20 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED
21 AND EMPOWERED TO ELECT TO PROVIDE THE SAME EXEMPTION FROM SUCH TAXES AS
22 THE FIREARMS, AMMUNITION, ARCHERY EQUIPMENT AND HUNTING SUPPLIES
23 EXEMPTION DURING A THREE-DAY PERIOD EACH YEAR COMMENCING ON THE THIRD
24 FRIDAY OF AUGUST, AND ENDING ON THE FOLLOWING MONDAY, FROM STATE SALES
25 AND COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVI-
26 SION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY ENACTING A
27 RESOLUTION IN THE FORM SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION;
28 WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF SUBDIVISIONS (D) AND
29 (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOLUTION SHALL BE DEEMED
30 TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED SEVEN AND SUCH SECTION
31 ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE SUCH EXEMPTION AS IF
32 IT HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE AND APPROVED BY THE
33 GOVERNOR.

34 (2) FORM OF RESOLUTION: BE IT ENACTED BY THE (INSERT PROPER TITLE OF
35 LOCAL LEGISLATIVE BODY) AS FOLLOWS:

36 SECTION 1. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR
37 CONTRACTED TO BE GIVEN FOR PURCHASES OF FIREARMS, AMMUNITION, ARCHERY
38 EQUIPMENT AND HUNTING SUPPLIES EXEMPT FROM STATE SALES AND COMPENSATING
39 USE TAXES DURING A THREE-DAY PERIOD EACH YEAR COMMENCING ON THE THIRD
40 FRIDAY OF AUGUST AND ENDING ON THE FOLLOWING MONDAY, PURSUANT TO PARA-
41 GRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF
42 THE TAX LAW SHALL ALSO BE EXEMPT FROM SALES AND COMPENSATING USE TAXES
43 IMPOSED IN THIS JURISDICTION.

44 SECTION 2. THIS RESOLUTION SHALL TAKE EFFECT, (INSERT THE DATE) AND
45 SHALL APPLY TO SALES MADE AND USES OCCURRING ON AND AFTER THAT DATE
46 ALTHOUGH MADE OR OCCURRING UNDER A PRIOR CONTRACT.

47 S 7. This act shall take effect on the first day of the sales tax
48 quarterly period, as described in subdivision (b) of section 1136 of the
49 tax law, beginning at least 90 days after the date this act shall have
50 become a law and shall apply in accordance with the applicable transi-
51 tional provisions of sections 1106 and 1217 of the tax law; and provided
52 that the commissioner of taxation and finance shall be authorized on and
53 after the date this act shall have become a law to adopt and amend any
54 rules or regulations necessary to implement this act on its effective
55 date.