

STATE OF NEW YORK

1542--A

2017-2018 Regular Sessions

IN SENATE

January 10, 2017

Introduced by Sen. AVELLA -- 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 establishing a temporary task force on black market cigarettes; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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

11 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
12 cigarettes are used to fuel organized crime and terrorist organizations,
13 such as Hamas and Hezbollah. In addition, this criminal activity creates
14 imbalanced and unfair business competition for law-abiding mom and pop
15 stores and other businesses who do pay taxes. In light of the overwhelming growth in black market cigarettes and the inherent dangers of this
16 unbridled criminal activity, it is imperative that we make concerted

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

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1 efforts to develop enhanced measures and strategies to fully address
2 this issue.

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

10 § 2. 1. A temporary task force, to be known as the temporary task
11 force on black market cigarettes, is hereby created to examine and
12 investigate such issues related to sale and distribution in New York of
13 tobacco products for which required tax has not been paid, including,
14 but not limited to, unlawfully manufactured cigarettes, cigarettes smug-
15 gled from low-tax jurisdictions, and stolen tobacco products from
16 convenience stores, cargos and truck hijacking. This task force will be
17 comprised of appropriate state agency personnel, law enforcement author-
18 ities, and an expert in the fields of taxation. The task force will
19 facilitate studying the root causes of rising black market cigarettes in
20 New York and assess the economic, health, and public safety impact of
21 illicit cigarette sales and distribution in this state.

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

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

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

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

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

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

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

35 (g) develop measures and goals that will enable the task force and its
36 partners to better gauge success in decreasing the black market in ciga-
37 rettes.

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

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

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

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

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

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

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

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

52 4. Four voting members of the temporary task force shall, at all
53 times, constitute a quorum. Members shall receive no compensation for
54 their services; members (including non-voting members) who are not
55 governmental employees shall be reimbursed for their reasonable expenses
56 incurred during the performance of their duties. Notwithstanding any

1 inconsistent provision of any general, special or local law, no officer
2 or employee of the state or of any political subdivision thereof shall
3 forfeit his or her office or employment by reason of acceptance of
4 appointment to the temporary task force.

5 5. Within one year of the effective date of this act, such temporary
6 task force shall issue a report containing such findings and recommenda-
7 tions.

8 § 3. This act shall take effect immediately and shall expire and be
9 deemed repealed one year after such date.