STATE OF NEW YORK

204--A

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sens. MARCHIONE, FUNKE, SEWARD -- 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

AN ACT to amend the tax law, in relation to the imposition of sales tax on snowmobiles and all terrain vehicles

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

Section 1. Section 1117 of the tax law, as amended by chapter 481 of the laws of 2000, is amended to read as follows:

§ 1117. Certain sales of motor vehicles [~~and~~], vessels**, snowmobiles and all terrain vehicles**. (a) Receipts from any sale of a motor vehicle [~~or~~], vessel**, snowmobile or all terrain vehicle** shall not be subject to the retail sales tax imposed under subdivision (a) of section eleven hundred five of this article, despite the taking of physical possession by the purchaser within this state, provided that:

(1) the purchaser, at the time of taking delivery

(i) is a nonresident of this state,

(ii) has no permanent place of abode in this state, and

(iii) is not engaged in carrying on in this state any employment, trade, business or profession in which the motor vehicle [~~or~~], vessel**, snowmobile or all terrain vehicle** will be used in this state;

(2) (i) the vendor of such motor vehicle does not issue to such purchaser with respect to such motor vehicle either a temporary certificate of registration pursuant to subdivision seven of section four hundred twenty of the vehicle and traffic law or a temporary registration pursuant to section four hundred twenty-a of the vehicle and traffic law, or other like certificate or registration; or

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

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(ii) the vendor of such vessel does not assign to such vessel a New York registration number or issue to such purchaser with respect to such vessel a temporary registration pursuant to section twenty-two hundred fifty-five of the vehicle and traffic law, or other like registration or temporary certificate of registration; **or**

(iii) the vendor of such snowmobile does not assign to such snowmobile a New York registration number or issue to such purchaser with respect to such snowmobile a temporary registration pursuant to subdivision four of section twenty-two hundred twenty-five of the vehicle and traffic law, or other like registration or temporary certificate of registration; or

(iv) the vendor of such all terrain vehicle does not assign to such all terrain vehicle a New York registration number or issue to such purchaser with respect to such all terrain vehicle a temporary registration pursuant to subdivision four of section twenty-two hundred eighty-five of the vehicle and traffic law, or other like registration or temporary certificate of registration;

(3) the purchaser does not register such motor vehicle [~~or~~]**,** vessel**, snowmobile or all terrain vehicle**, as the case may be, in this state prior to registering such motor vehicle or vessel in another state or jurisdiction; and

(4) prior to taking delivery such purchaser furnishes to such vendor any affidavit, statement or additional evidence, documentary or otherwise, which the commissioner may require to ensure proper administration of the tax imposed under subdivision (a) of section eleven hundred five of this article.

(b) A vendor shall not be liable for failure to collect tax on receipts from any sale of a motor vehicle [~~or~~]**,** vessel**, snowmobile or all terrain vehicle** provided that the vendor prior to making delivery obtains and keeps available for inspection by the commissioner any affidavit, statement or additional evidence, documentary or otherwise, as may be required to be furnished under subdivision (a) of this section; provided that such affidavit, statement or additional evidence is not known by the vendor, prior to making physical delivery of the motor vehicle [~~or~~]**,** vessel**, snowmobile or all terrain vehicle**, to be false.

(c) For purposes of this section, the term:

(1) "Motor vehicle" shall include a motor vehicle as defined in section one hundred twenty-five of the vehicle and traffic law and a trailer as defined in section one hundred fifty-six of the vehicle and traffic law.

(2) "Vessel" shall (i) include a vessel as defined in section twenty-two hundred fifty of the vehicle and traffic law, including any inboard or outboard motor and any trailer, as defined in section one hundred fifty-six of the vehicle and traffic law, sold with the vessel for use with such vessel; (ii) but not include a vessel weighing two hundred pounds or less, inclusive of any mast and sail or other rigging, which is not equipped with a motor and which is exempt from registration under paragraph (g) of subdivision one of section twenty-two hundred fifty-two of the vehicle and traffic law.

(3) "Snowmobile" shall include a snowmobile as defined in section twenty-two hundred twenty-one of the vehicle and traffic law.

(4) "All terrain vehicle" shall include an all terrain vehicle as defined in section twenty-two hundred eighty-one of the vehicle and traffic law.

(d) Nothing in this section or section twelve hundred fourteen of this chapter shall be construed as meaning that the provisions of subdivision

(i) of section eleven hundred eleven of this article do not apply to leases of motor vehicles, vessels and trailers described in subdivision (i) of section eleven hundred eleven of this article.

§ 2. Section 1214 of the tax law, as amended by chapter 481 of the laws of 2000, is amended to read as follows:

§ 1214. Certain sales of motor vehicles [~~and~~], vessels, snowmobiles and all terrain vehicles: proof required for registration of motor vehicles [~~and~~], vessels, snowmobiles and all terrain vehicles. (a) (1) Except as provided in paragraph three of this subdivision, where a sale of a motor vehicle [~~or~~], vessel, snowmobile or all terrain vehicle, including an agreement therefor, is made in any city, county or school district to a nonresident thereof, such sale shall not be subject to tax by such city, county or school district, despite the fact that such motor vehicle [~~or~~], vessel, snowmobile or all terrain vehicle is delivered to the purchaser within such jurisdiction, provided the purchaser furnishes to the vendor, prior to taking delivery, proof satisfactory to the commissioner that the purchaser:

(i) is a nonresident of the jurisdiction in which the sale is made,

(ii) has no permanent place of abode within such jurisdiction,

(iii) is not engaged in carrying on in such jurisdiction any employment, trade, business or profession in which the motor vehicle [~~or~~], vessel, snowmobile or all terrain vehicle will be used in such jurisdiction, and such other proof as the commissioner may require to ensure proper administration of the taxes imposed under the authority of sections twelve hundred ten and twelve hundred eleven of this article.

(2) However, if such purchaser resides in a city, county or school district imposing a tax on the use of such motor vehicle [~~or~~], vessel, snowmobile or all terrain vehicle, the vendor shall be required to collect from such purchaser, as provided in section twelve hundred fifty-four of this article, the aggregate compensating use taxes imposed by the city, if any, county and school district in which such purchaser resides, for distribution by the commissioner to such taxing jurisdiction or jurisdictions.

(3) Provided, however, the exclusion from tax provided in paragraph one of this subdivision shall not apply where the receipts from such sale would have been excluded from tax pursuant to section eleven hundred seventeen of this chapter but for failure to satisfy either the condition set forth in paragraph two of subdivision (a) of section eleven hundred seventeen of this chapter or the condition set forth in paragraph three of subdivision (a) of section eleven hundred seventeen of this chapter.

(b) A vendor shall not be liable for failure to collect tax on such sale of a motor vehicle [~~or~~], vessel, snowmobile or all terrain vehicle provided the proof furnished to such vendor by the purchaser pursuant to subdivision (a) of this section shows that the purchaser's residence is not in any city, county or school district which imposes a tax on the use of such motor vehicle [~~or~~], vessel, snowmobile or all terrain vehicle, and provided the vendor keeps such proof available for inspection by the commissioner and further provided that such proof is not known by the vendor, prior to making physical delivery of the motor vehicle [~~or~~], vessel, snowmobile or all terrain vehicle, to be false.

(c) For purposes of subdivisions (a) and (b) of this section, the term:

(1) "Motor vehicle" shall include a motor vehicle as defined in section one hundred twenty-five of the vehicle and traffic law and a

trailer as defined in section one hundred fifty-six of the vehicle and traffic law.

(2) "Vessel" shall (i) include a vessel as defined in section twenty-two hundred fifty of the vehicle and traffic law, including any inboard or outboard motor and any trailer, as defined in section one hundred fifty-six of the vehicle and traffic law, sold with the vessel for use with such vessel; (ii) but not include a vessel weighing two hundred pounds or less, inclusive of any mast and sail or other rigging, which is not equipped with a motor and which is exempt from registration under paragraph (g) of subdivision one of section twenty-two hundred fifty-two of the vehicle and traffic law.

(3) "Snowmobile: shall include a snowmobile as defined in section twenty-two hundred twenty-one of the vehicle and traffic law.

(4) "All terrain vehicle" shall include an all terrain vehicle as defined in section twenty-two hundred eighty-one of the vehicle and traffic law.

(d) The commissioner of motor vehicles shall not issue a registration certificate, except in renewal of registration by the same owner, (1) for any passenger motor vehicle not used to carry passengers for hire, any snowmobile, as defined in section twenty-two hundred twenty-one of the vehicle and traffic law, trailer, as defined in section one hundred fifty-six of the vehicle and traffic law, vessel, as defined in section twenty-two hundred fifty of such law, or all terrain vehicle, as defined in section twenty-two hundred eighty-one of such law, which is owned by an individual whose residence is within any city or county imposing the taxes authorized by subdivision (a) of section twelve hundred ten of this article, or (2) for any motor vehicle, snowmobile, trailer, vessel or all terrain vehicle except as provided in paragraph one of this subdivision, owned by a person whose residence or business address is within any such city or county, except upon proof, in a form approved by the commissioner and the commissioner of motor vehicles that any tax imposed by such city or county with respect to the sale of the motor vehicle, snowmobile, trailer, vessel or all terrain vehicle to the registrant or his use thereof has been paid, or that no such tax is due.

§ 3. Paragraph 1 of subdivision (g) of section 1132 of the tax law, as amended by chapter 402 of the laws of 1986, is amended to read as follows:

(1) The clerk of each county when performing the function of registration of a motor vehicle, snowmobile, vessel or all terrain vehicle or accepting an application for a certificate of title of a motor vehicle or vessel, pursuant to the authority of the vehicle and traffic law, or the commissioner of motor vehicles, when such commissioner performs such functions, prior to performing such functions, shall act as the agent of the state tax commission to collect any retail sales tax due under this article and under a sales tax imposed pursuant to section twelve hundred ten or twelve hundred eleven **of this chapter** upon sales of such motor vehicles, snowmobiles, vessels or all terrain vehicles by persons other than dealers registered under sections four hundred fifteen, twenty-two hundred twenty-two, twenty-two hundred fifty-seven and twenty-two hundred eighty-two of the vehicle and traffic law. Such county clerks and such commissioner shall also act as such agents to collect any compensating use tax due under section eleven hundred ten **of this article** and under a compensating use tax imposed pursuant to section twelve hundred ten or twelve hundred eleven **of this chapter** for the use of a motor vehicle, snowmobile, vessel or all terrain vehicle within this state. The commissioner of motor vehicles shall act as such agent with-

out fee. Each such county clerk shall, after deducting his fee as provided in paragraph two of this subdivision, and such commissioner shall remit to the tax commission all funds collected pursuant to this subdivision and shall follow such procedures and keep such records as shall be prescribed by the tax commission. **Sales or compensating use taxes collected pursuant to the provisions of this section on snowmobiles or all terrain vehicles shall be determined by reference to place of residence of the owner of the snowmobile or all terrain vehicle.**

§ 4. This act shall take effect immediately and shall apply to sales made and uses occurring on or after the first day of a sales tax quarterly period, as described in subdivision (b) of section 1136 of the tax law, next commencing at least 90 days after this act shall have become a law, although made or used under a prior contract; provided that the commissioner of taxation and finance shall be authorized on and after the date this act shall have become a law to adopt and amend any rules or regulations and issue any procedures, forms or instructions necessary to implement the provisions of this act on its effective date.