

# STATE OF NEW YORK

1432

2021-2022 Regular Sessions

## IN ASSEMBLY

January 11, 2021

Introduced by M. of A. CAHILL -- read once and referred to the Committee on Ways and Means

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 Assembly, do enact as follows:

Section 1. Subdivision 1 of section 472 of the tax law, as amended by chapter 629 of the laws of 1996 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

1. The commissioner shall [~~prescribe,~~] prepare and furnish stamps of such denominations and quantities as may be necessary for the payment of the tax on cigarettes imposed by this article, and may from time to time and as often as he or she deems advisable provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design, in the manner and with the effect provided in section two hundred seventy-four of this chapter. Such stamps shall measure two inches by two inches and be affixed to the package overwrap on both sides of a package of twenty cigarettes. Each stamp shall bear a color graphic depicting an adverse effect of cigarette use and include a toll free telephone number which callers may access for information on smoking cessation. The commissioner shall make provisions for the sale of such stamps at such places and at such times as he or she may deem necessary and may license agents for such purpose. The commissioner may license dealers in cigarettes, who maintain separate warehousing facilities for the purpose of receiving and distributing cigarettes and conducting their business, who have received commitments from at least two cigarette manufacturers whose aggregate market share is at least forty percent of the New York state cigarette market, and importers, exporters and manufacturers of cigarettes, and other persons within or without the state as agents to buy or affix stamps to be used in paying the tax herein imposed, but an agent shall at all times have the right

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

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

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