STATE OF NEW YORK

8127

2021-2022 Regular Sessions

IN ASSEMBLY

June 11, 2021

Introduced by M. of A. PICHARDO, RODRIGUEZ -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the state finance law, in relation to enacting the healthy bodega fund act; 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:

Section 1. Short title. This act shall be known and may be cited as the "healthy bodega fund act".

§ 2. The environmental conservation law is amended by adding a new section 27-2811 to read as follows:

§ 27-2811. Statewide carryout bag reduction fee.

1. (a) There shall be a statewide tax imposed at a rate of five cents on any plastic carryout bag or paper carryout bag to be known as a carryout bag reduction fee. Such carryout bag reduction fee, whether or not any tangible personal property is sold therewith, shall be imposed at a rate of five cents on each plastic carryout bag and paper carryout bag provided by a person required to collect tax to a customer in this state. The plastic carryout bag and paper carryout bag reduction fee must be reflected and made payable on the sales slip, invoice, receipt, or other statement of the price rendered to the customer.

(b) Such carryout bag reduction fee shall not constitute a receipt for the sale of tangible personal property subject to tax, pursuant to articles twenty-eight and twenty-nine of the tax law, and transfer of a bag to a customer by a person required to collect tax shall not constitute a retail sale.

(c) It shall be unlawful for a municipal corporation to adopt or amend a local law, ordinance or resolution requiring the imposition of any fee on the provision of a plastic carryout bag or paper carryout bag before July first, two thousand twenty-two.

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

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2. The carryout bag reduction fee imposed by this section shall not apply to any customer using the supplemental nutritional assistance program, special supplemental nutrition program for women, infants and children, or any successor programs used as full or partial payment for the items purchased.

3. The carryout bag reduction fee shall be reported and paid to the commissioner of taxation and finance on a quarterly basis on or before the twentieth day of the month following each quarterly period ending on the last day of February, May, August and November, respectively. The payments shall be accompanied by a return in the form and containing the information the commissioner of taxation and finance may prescribe.

4. Any sales slip, invoice, receipt, or other statement of price furnished by a person required to collect tax to a customer shall separately state the carryout bag reduction fee and shall state the number of bags provided to the customer.

5. (a) Except as otherwise provided in this section, the carryout bag reduction fee imposed under the authority of this section shall be administered and collected by the commissioner of taxation and finance in a like manner as the taxes imposed by articles twenty-eight and twenty-nine of the tax law. All the provisions of articles twenty-eight and twenty-nine of the tax law, including the provisions relating to definitions, exemptions, returns, personal liability for the tax, collection of tax from the customer, payment of tax and the administration of the taxes imposed by such articles, shall apply to the carryout bag reduction fee imposed under the authority of this section.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision:

(i) the exemptions provided for in section eleven hundred sixteen of the tax law, other than the exemptions in paragraphs one, two and three of subdivision (a) of such section, shall not apply to the carryout bag reduction fee imposed under the authority of this section; and

(ii) the credit provided in subdivision (f) of section eleven hundred thirty-seven of the tax law shall not apply to this section.

(c) Notwithstanding the provisions of paragraph (a) of this subdivision or subdivision (a) of section eleven hundred forty-six of the tax law, the commissioner of taxation and finance may, in his or her discretion, permit the commissioner, or his or her authorized representative, to inspect any return related to the carryout bag reduction fee filed under this section, or may furnish to the commissioner, or his or her authorized representative, any such return or supply him or her with information concerning an item contained in any such return, or disclosed by any investigation of a liability under this section.

6. All carryout bag reduction fee monies and any related penalties and interest remitted to the commissioner of taxation and finance under this section, shall be deposited daily with such responsible banks, banking houses, or trust companies as may be designated by the state comptroller. Of the revenues deposited, the comptroller shall retain in the comptroller's hands such amount as the commissioner of taxation and finance may determine to be necessary for refunds or reimbursements of the fees collected or received pursuant to this section, out of which the comptroller shall pay any refunds or reimbursements of such fees to which persons shall be entitled under the provisions of this section. The comptroller shall deposit two cents of the carryout bag reduction fee rate of five cents on each plastic carryout bag and paper carryout bag into the healthy bodega program fund established pursuant to section ninety-nine-nn of the state finance law on a quarterly basis. The comp-

troller shall deposit any remaining monies and any related penalties and interest into the general fund on a quarterly basis.

7. This section shall preempt sections 27-2803, 27-2805 and 27-2807 of this title and any local law, ordinance or resolution previously adopted in relation to plastic carryout bags, paper and reusable carryout bags, and reusable bags.

§ 3. The state finance law is amended by adding a new section 99-nn to read as follows:

§ 99-nn. Healthy bodega program fund. 1. There is hereby established in the joint custody of the state comptroller and commissioner of taxation and finance a special fund to be known as the "healthy bodega program fund".

2. Such fund shall consist of all monies appropriated to such fund and any grant, gift or bequest made to the fund.

3. Monies of the fund shall be available for the purposes of funding a healthy bodega program that will bolster small immigrant retailers and address the serious health consequences that the COVID-19 pandemic had on black and Hispanic communities. Such monies shall be used to establish a training and planning infrastructure and prepare the store owners for the conversion to healthier food outlets.

4. The monies of the fund shall be paid out on the audit and warrant of the comptroller on vouchers certified or approved by the commissioner of environmental conservation, or by an officer or employee of the department of environmental conservation designated by such commissioner.

§ 4. This act shall take effect immediately; provided, however, that section one of this act shall expire July 1, 2022 when upon such date the provisions of this act shall be deemed repealed.