

STATE OF NEW YORK

8080

2025-2026 Regular Sessions

IN SENATE

May 15, 2025

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to taxes on selected nicotine products

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

1 Section 1. The article heading of article 20 of the tax law, as
2 amended by chapter 71 of the laws of 1959, is amended to read as
3 follows:

ARTICLE 20

TAX ON CIGARETTES [~~AND~~], TOBACCO PRODUCTS

AND SELECTED NICOTINE PRODUCTS

7 § 2. Section 470 of the tax law is amended by adding two new subdivi-
8 sions 22 and 23 to read as follows:

9 22. "Selected nicotine products." A nicotine pouch or products
10 intended to be made into a nicotine pouch by the consumer.

11 23. "Nicotine pouch." A smokeless pre-portioned pouch containing nico-
12 tine but no tobacco, which the user puts and leaves between their lip
13 and gum while the nicotine and taste is being released.

14 § 3. Section 471-b of the tax law, as added by chapter 61 of the laws
15 of 1989, subdivision 1 as amended by section 2 of part QQ-1 of chapter
16 57 of the laws of 2008, paragraphs (a) and (b) of subdivision 1 as
17 amended by section 18 of part D of chapter 134 of the laws of 2010 and
18 paragraph (c) of subdivision 1 as amended by section 1 of part Q of
19 chapter 59 of the laws of 2024, is amended to read as follows:

20 § 471-b. Imposition of [~~tobacco products~~] tax on tobacco products and
21 selected nicotine products. 1. There is hereby imposed and shall be
22 paid a tax on all tobacco products and selected nicotine products
23 possessed in this state by any person for sale, except that no tax shall
24 be imposed on tobacco products and selected nicotine products sold under
25 such circumstances that this state is without power to impose such tax,

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

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1 or sold to the United States, or sold to or by a voluntary unincorporat-
2 ed organization of the armed forces of the United States operating a
3 place for the sale of goods pursuant to regulations promulgated by the
4 appropriate executive agency of the United States, to the extent
5 provided in such regulations and policy statements of such an agency
6 applicable to such sales.

7 (a) Such tax on tobacco products and selected nicotine products other
8 than snuff and little cigars shall be at the rate of seventy-five
9 percent of the wholesale price, and is intended to be imposed only once
10 upon the sale of selected nicotine products and any tobacco products
11 other than snuff and little cigars.

12 (b) Such tax on snuff shall be at the rate of two dollars per ounce
13 and a proportionate rate on any fractional parts of an ounce, provided
14 that cans or packages of snuff with a net weight of less than one ounce
15 shall be taxed at the equivalent rate of cans or packages weighing one
16 ounce. Such tax shall be computed based on the net weight as listed by
17 the manufacturer, and is intended to be imposed only once upon the sale
18 of any snuff.

19 (c) The tax on each little cigar shall be at the rate of twenty-six
20 and three-quarters cents and is intended to be imposed only once upon
21 the sale of any little cigar.

22 It shall be presumed that all tobacco products and selected nicotine
23 products within the state are subject to tax until the contrary is
24 established, and the burden of proof that any tobacco products and
25 selected nicotine products are not taxable hereunder shall be upon the
26 person in possession thereof.

27 2. The distributor shall be liable for the payment of the tax on
28 tobacco products and selected nicotine products which [~~he imports or~~
29 ~~causes~~] they import or cause to be imported into the state, or which [~~he~~
30 ~~manufactures~~] they manufacture in the state, and every distributor
31 authorized by the commissioner of taxation and finance to make returns
32 and pay the tax on tobacco products and selected nicotine products sold,
33 shipped or delivered by [~~him~~] them to any person in the state shall be
34 liable for the payment of the tax on all tobacco products and selected
35 nicotine products so sold, shipped or delivered.

36 3. Every dealer shall be liable for the tax on all tobacco products
37 and selected nicotine products in [~~his~~] their possession at any time,
38 upon which tax has not been paid or assumed by a distributor appointed
39 by the commissioner of taxation and finance, and the failure of any
40 dealer to produce and exhibit to the commissioner of taxation and
41 finance or [~~his~~] the commissioner's authorized representative upon
42 demand, an invoice by a distributor or licensed wholesale dealer for any
43 tobacco products or selected nicotine products in [~~his~~] their possession
44 shall be presumptive evidence that the tax thereon has not been paid,
45 and that such dealer is liable for the tax thereon unless evidence of
46 such invoice, payment or assumption shall later be produced.

47 § 4. The section heading and subdivision (a) of section 471-c of the
48 tax law, the section heading as amended by section 2 of part I-1 of
49 chapter 57 of the laws of 2009, paragraphs (i) and (ii) of subdivision
50 (a) as amended by section 20 of part D of chapter 134 of the laws of
51 2010 and paragraph (iii) of subdivision (a) as amended by section 2 of
52 part Q of chapter 59 of the laws of 2024, are amended to read as
53 follows:

54 Use tax on tobacco products and selected nicotine products. (a) There
55 is hereby imposed and shall be paid a tax on all tobacco products and
56 selected nicotine products used in the state by any person, except that

1 no such tax shall be imposed (1) if the tax provided in section four
2 hundred seventy-one-b of this article is paid, or (2) on the use of
3 tobacco products or selected nicotine products which are exempt from the
4 tax imposed by said section, or (3) on the use of two hundred fifty
5 cigars or less, or five pounds or less of tobacco other than roll-your-
6 own tobacco, or thirty-six ounces or less of roll-your-own tobacco
7 brought into the state on, or in the possession of, any person.

8 (i) Such tax on tobacco products and selected nicotine products other
9 than snuff and little cigars shall be at the rate of seventy-five
10 percent of the wholesale price.

11 (ii) Such tax on snuff shall be at the rate of two dollars per ounce
12 and a proportionate rate on any fractional parts of an ounce, provided
13 that cans or packages of snuff with a net weight of less than one ounce
14 shall be taxed at the equivalent rate of cans or packages weighing one
15 ounce. Such tax shall be computed based on the net weight as listed by
16 the manufacturer.

17 (iii) The tax on each little cigar shall be at the rate of twenty-six
18 and three-quarters cents and is intended to be imposed only once upon
19 the sale of any little cigar.

20 § 5. Subdivision 3 of section 472 of the tax law, as added by chapter
21 61 of the laws of 1989 and as further amended by section 104 of part A
22 of chapter 62 of the laws of 2011, is amended to read as follows:

23 3. The commissioner of taxation and finance may appoint dealers in
24 tobacco products and selected nicotine products, manufacturers of tobac-
25 co products and selected nicotine products, and other persons within or
26 without the state as distributors and may authorize them to make returns
27 and to pay the tax on tobacco products and selected nicotine products
28 sold, shipped or delivered by them to any person in the state. The
29 commissioner may, in ~~[his]~~ their discretion, require the deposit of a
30 bond issued by a surety company approved by the superintendent of finan-
31 cial services as to solvency and responsibility and authorized to trans-
32 act business in this state, or other security acceptable to the commis-
33 sioner in an amount and form satisfactory to ~~[him]~~ them as a condition
34 of appointing any such person as a distributor. If securities are depos-
35 ited as security under this subdivision, such securities shall be kept
36 in the custody of the commissioner of taxation and finance and may be
37 sold by the commissioner if it becomes necessary so to do in order to
38 recover any sums due from such distributor pursuant to this article, but
39 no such sale shall be had until after such distributor shall have had an
40 opportunity to litigate the validity of any tax if it elects so to do.
41 Upon any such sale, the surplus, if any, above the sums due under this
42 article shall be returned to such distributor.

43 § 6. Section 473-a of the tax law, as added by chapter 61 of the laws
44 of 1989, is amended to read as follows:

45 § 473-a. Returns and payment of ~~[tobacco products]~~ tax on tobacco
46 products and selected nicotine products by distributors. 1. Every
47 distributor shall, on or before the twentieth day of each month, file
48 with the commissioner of taxation and finance a return on forms to be
49 prescribed and furnished by the commissioner, showing the quantity and
50 wholesale price of all tobacco products and selected nicotine products
51 imported or caused to be imported into the state by ~~[him]~~ that distribu-
52 tor or manufactured in the state by ~~[him]~~ such distributor, during the
53 preceding calendar month. Every distributor authorized by the commis-
54 sioner to make returns and pay the tax on tobacco products and selected
55 nicotine products sold, shipped or delivered by ~~[him]~~ them to any person
56 in the state shall file a return showing the quantity and wholesale

1 price of all tobacco products and selected nicotine products so sold,
2 shipped, or delivered during the preceding calendar month. Provided,
3 however, the commissioner may, if [~~he~~] such commissioner deems it neces-
4 sary in order to insure the payment of the taxes imposed by this arti-
5 cle, require returns to be made at such times and covering such periods
6 as [~~he~~] they may deem necessary, and, by regulation, may permit the
7 filing of returns on a quarterly, semi-annual or annual basis, or may
8 waive the filing of returns by a distributor for such time and upon such
9 terms as [~~he~~] they may deem proper if satisfied that no tax imposed by
10 this article is or will be payable by [~~him~~] them during the time for
11 which returns are waived. Such returns shall contain such further infor-
12 mation as the commissioner may require.

13 2. Every distributor shall pay to the commissioner with the filing of
14 such return the tax on tobacco products and selected nicotine products
15 for such month imposed under this article.

16 § 7. Subdivisions 1, 2, 3 and 4 of section 474 of the tax law, subdi-
17 vision 1 as amended and subdivision 3 as added by chapter 61 of the laws
18 of 1989, subdivision 2 as amended by chapter 552 of the laws of 2008 and
19 subdivision 4 as amended by section 1 of part T of chapter 59 of the
20 laws of 2023, are amended to read as follows:

21 1. Every person who shall possess or transport any unstamped ciga-
22 rettes upon the public highways, roads or streets of the state, shall be
23 required to have in [~~his~~] their actual possession invoices or delivery
24 tickets for such cigarettes. Such invoices or delivery tickets shall
25 show the name and address of the consignor or seller, the name and
26 address of the consignee or purchaser, the quantity and brands of the
27 cigarettes transported, and the name and address of the person who has
28 or shall assume the payment of the tax. The absence of such invoices or
29 delivery tickets shall be prima facie evidence that such person is a
30 dealer in cigarettes in this state and subject to the provisions of this
31 article.

32 2. Every person who shall possess or transport more than two hundred
33 fifty cigars, or more than five pounds of tobacco other than roll-your-
34 own tobacco, or more than thirty-six ounces of roll-your-own tobacco, or
35 selected nicotine products the average expected nicotine content of
36 which totals to more than fifteen hundred milligrams upon the public
37 highways, roads or streets of the state, shall be required to have in
38 [~~his~~] their actual possession invoices or delivery tickets for such
39 tobacco products or selected nicotine products. Such invoices or deliv-
40 ery tickets shall show the name and address of the consignor or seller,
41 the name and address of the consignee or purchaser, the quantity and
42 brands of the tobacco products and selected nicotine products trans-
43 ported, and the name and address of the person who has or shall assume
44 the payment of the tax and the wholesale price or the tax paid or paya-
45 ble. The absence of such invoices or delivery tickets shall be prima
46 facie evidence that such person is a dealer in tobacco products or
47 selected nicotine products in this state and subject to the requirements
48 of this article.

49 3. Every dealer or distributor or employee thereof, or other person
50 acting on behalf of a dealer or distributor, who shall possess or trans-
51 port more than fifty cigars or more than one pound of tobacco, or
52 selected nicotine products the average expected nicotine content of
53 which totals to more than three hundred milligrams upon the public high-
54 ways, roads or streets of the state, shall be required to have in [~~his~~]
55 their actual possession invoices or delivery tickets for such tobacco
56 products and such selected nicotine products. Such invoices or delivery

1 tickets shall show the name and address of the consignor or seller, the
2 name and address of the consignee or purchaser, the quantity and brands
3 of the tobacco products and selected nicotine products transported, and
4 the name and address of the person who has or shall assume the payment
5 of the tax and the wholesale price or the tax paid or payable. The
6 absence of such invoices or delivery tickets shall be prima facie
7 evidence that the tax imposed by this article on tobacco products and
8 selected nicotine products has not been paid and is due and owing.

9 4. At the time of delivering cigarettes to any person each agent or
10 wholesale dealer, and at the time of delivering tobacco products to any
11 person each distributor or wholesale dealer of tobacco products, and at
12 the time of delivering selected nicotine products to any person each
13 distributor or wholesale dealer of selected nicotine products shall make
14 a true duplicate invoice showing the date of delivery, the number of
15 packages and number of cigarettes contained therein, in each shipment of
16 cigarettes delivered, and the items and quantity and wholesale price of
17 each item in each shipment of tobacco products and selected nicotine
18 products delivered, and the name of the purchaser to whom delivery is
19 made, and shall retain the same for a period of three years subject to
20 the use and inspection of the commissioner. Each dealer shall procure
21 and retain invoices showing the number of packages and number of ciga-
22 rettes contained therein, in each shipment of cigarettes received by
23 [~~him or her~~] them, and the items and quantity and wholesale price of
24 each item in each shipment of tobacco products and selected nicotine
25 products received by [~~him or her~~] them, the date thereof, and the name
26 of the shipper, and shall retain the same for a period of three years
27 subject to the use and inspection of the commissioner. The commissioner
28 by regulation may provide that whenever cigarettes [~~or~~], tobacco
29 products, or selected nicotine products are shipped into the state, the
30 railroad company, express company, trucking company or other public
31 carrier transporting any shipment thereof shall file with the commis-
32 sioner a copy of the freight bill within ten days after the delivery in
33 the state of each shipment. All dealers shall maintain and keep for a
34 period of three years such other records of cigarettes [~~or~~], tobacco
35 products, or selected nicotine products received, sold or delivered
36 within the state as may be required by the commissioner. The commis-
37 sioner is hereby authorized to examine the books, papers, invoices and other
38 records of any person in possession, control or occupancy of any prem-
39 ises where cigarettes [~~or~~], tobacco products, or selected nicotine
40 products are placed, stored, sold or offered for sale, and the equipment
41 of any such person pertaining to the stamping of cigarettes or the sale
42 and delivery of cigarettes [~~or~~], tobacco products, or selected nicotine
43 products taxable under this article, as well as the stock of cigarettes
44 [~~or~~], tobacco products, or selected nicotine products in any such prem-
45 ises or vehicle. To verify the accuracy of the tax imposed and assessed
46 by this article, each such person is hereby directed and required to
47 give to the commissioner or [~~his or her~~] their duly authorized represen-
48 tatives, the means, facilities and opportunity for such examinations as
49 are herein provided for and required.

50 § 8. Section 476 of the tax law, as amended by chapter 61 of the laws
51 of 1989, is amended to read as follows:

52 § 476. Refunds; sales of stamps. Whenever any cigarettes upon which
53 stamps have been placed [~~or~~], tobacco products upon which the tax has
54 been paid, or selected nicotine products upon which the tax has been
55 paid have been sold and shipped into another state for sale or use there
56 or have become unfit for use and consumption or unsalable, or have been

1 destroyed, or whenever the commissioner [~~of taxation and finance~~] shall
2 have determined that any tax imposed by this article shall have been
3 paid in error, the agent, dealer [~~or~~], tobacco products distributor, or
4 distributor of selected nicotine products, as the case may be, shall be
5 entitled to a refund of the actual amount of tax so paid, provided
6 application therefor is filed with the commissioner [~~of taxation and~~
7 ~~finance~~] within two years after the stamps were affixed to such ciga-
8 rettes or the tax was paid upon such tobacco products or selected nico-
9 tine products, except if an agreement under the provisions of section
10 four hundred seventy-eight (extending the period for determination of
11 tax imposed by this article) is made within the two-year period for the
12 filing of an application for refund provided for in this section, the
13 period for filing an application for refund shall not expire prior to
14 six months after the expiration of the period within which a determi-
15 nation may be made pursuant to the agreement or any extension thereof.
16 If the commissioner [~~of taxation and finance~~] is satisfied that any
17 dealer is entitled to a refund [~~he~~] such commissioner shall issue to
18 such dealer stamps of sufficient value to cover the refund of the tax on
19 cigarettes or may, subject to audit by the comptroller, make a refund of
20 the tax on cigarettes or on tobacco products or on selected nicotine
21 products. No person shall sell or offer for sale any stamp or stamps
22 issued under this article except by written permission of the commis-
23 sioner [~~of taxation and finance~~]. The commissioner [~~of taxation and~~
24 ~~finance~~] may redeem unused stamps lawfully in possession of any person.
25 The commissioner [~~of taxation and finance~~] may prescribe necessary rules
26 and regulations concerning refunds, sales of stamps, and redemptions
27 under the provisions of this article.

28 § 9. Paragraphs (a), (d), (j), (k) and (l) of subdivision 1, subpara-
29 graphs (i) and (iv) of paragraph (b) of subdivision 3 and subdivision 4
30 of section 480 of the tax law, paragraphs (a) and (j) as amended and
31 paragraphs (d) and (l) of subdivision 1 as added by chapter 629 of the
32 laws of 1996, paragraph (k) of subdivision 1 as amended by chapter 262
33 of the laws of 2000, subparagraph (i) of paragraph (b) of subdivision 3
34 as added by chapter 860 of the laws of 1987 and subparagraph (iv) of
35 paragraph (b) of subdivision 3 and subdivision 4 as amended by chapter
36 61 of the laws of 1989, are amended to read as follows:

37 (a) On and after July first, nineteen hundred thirty-nine no person
38 shall be a wholesale dealer unless [~~he has~~] they have been granted and
39 publicly [~~displays~~] display in [~~his~~] their place of business a license
40 from the department. Applications for licenses shall be made on forms
41 prescribed by the commissioner.

42 (d) Each applicant shall file satisfactory proof that it will maintain
43 a secure separate warehousing facility for the purpose of receiving and
44 distributing cigarettes [~~or~~], tobacco products, or selected nicotine
45 products and conducting its wholesale business. Such proof shall consist
46 of a copy of a deed, or a copy of an executed lease for a minimum period
47 of two years, to a separate, secure warehouse. If the applicant carries
48 on another business in conjunction with the warehouse facility, the
49 other business shall also be identified.

50 (j) The commissioner may for cause refuse to issue, or may suspend or
51 revoke a wholesaler's license, or may forbid a retail dealer to continue
52 selling cigarettes [~~or~~], tobacco products, or selected nicotine products
53 or may forbid a person required to be appointed as a distributor of
54 tobacco products or selected nicotine products who has not been so
55 appointed from selling cigarettes [~~or~~], tobacco products, or selected
56 nicotine products, after an opportunity for hearing has been afforded. A

1 violation of any provision of this article or of any regulation issued
2 under it shall be cause to forbid a retail dealer to continue selling
3 cigarettes [~~or~~], tobacco products, or selected nicotine products.

4 (k) No agent shall sell cigarettes and no distributor shall sell
5 tobacco products or selected nicotine products to an unlicensed whole-
6 sale dealer, or to a wholesale dealer whose license has been suspended
7 or revoked, or to a retail dealer who is not registered under section
8 four hundred eighty-a of this article, or whose registration has been
9 suspended or revoked, and no wholesale dealer shall sell cigarettes
10 [~~or~~], tobacco products, or selected nicotine products to a retail dealer
11 who is not registered under section four hundred eighty-a of this arti-
12 cle, or whose registration has been suspended or revoked, and no retail
13 dealer shall sell cigarettes [~~or~~], tobacco products, or selected nico-
14 tine products unless such dealer is registered under section four
15 hundred eighty-a of this article.

16 (l) Paragraphs (b), (c) and (g) of this subdivision shall not apply to
17 the filing of an application for a license as a wholesale dealer that is
18 based solely upon the ownership, operation or maintenance of one or more
19 cigarette [~~or~~], tobacco products, or selected nicotine products vending
20 machines in, at or upon premises owned or occupied by another person, or
21 that is based solely upon the sale of tobacco products or selected nico-
22 tine products for resale, or that is based upon both the ownership,
23 operation or maintenance of one or more cigarette [~~or~~], tobacco
24 products, or selected nicotine products vending machines in, at or upon
25 premises owned or occupied by another person and the sale of tobacco
26 products or selected nicotine products for resale.

27 (i) Commits fraud or deceit in [~~his~~] their or its operations as a
28 wholesale dealer or has committed fraud or deceit in procuring [~~his~~]
29 their or its license,

30 (iv) Has knowingly aided and abetted the sale of cigarettes [~~or~~],
31 tobacco products, or selected nicotine products by a person which such
32 licensee or controlling person knows (A) has not been licensed by the
33 commissioner of taxation and finance and (B) is a wholesale dealer
34 pursuant to the terms of subdivision eight of section four hundred
35 seventy of this [~~chapter~~] article.

36 4. If the commissioner of taxation and finance considers it necessary
37 for the proper administration of the cigarette tax [~~or~~], tobacco
38 products tax, or selected nicotine products tax imposed by this article
39 or the cigarette marketing standards contained in article twenty-A of
40 this chapter [~~he~~] they may require every person under this article who
41 holds a license to file a new application for a license in such form and
42 at such time as the commissioner may prescribe and to surrender such
43 license. The commissioner may require such filing and such surrender not
44 more often than once every three years. Upon the filing of such applica-
45 tion with the proper fee and the surrender of such license, the commis-
46 sioner shall issue, within such time as [~~he~~] they may prescribe, a new
47 license to each applicant.

48 § 10. Paragraphs (a) and (b) of subdivision 1, paragraphs (a), (b) and
49 (d) of subdivision 2, subdivisions 3, 4 and 6 of section 480-a of the
50 tax law, paragraphs (a) and (b) of subdivision 1 as added by chapter 190
51 of the laws of 1990, paragraphs (a) and (b) of subdivision 2 as amended
52 by section 1 of part T of chapter 61 of the laws of 2011, paragraph (d)
53 of subdivision 2 and subdivision 4 as amended by section 3-a of part I
54 of chapter 59 of the laws of 2020, subdivision 3 as amended by section
55 125-a of part C of chapter 58 of the laws of 2009, paragraph (c) of
56 subdivision 3 and paragraph (a-1) of subdivision 4 as added and para-

1 graphs (b) and (d) of subdivision 4 as amended by section 3 of part T of
2 chapter 59 of the laws of 2023 and subdivision 6 as added by section 1
3 of part P of chapter 59 of the laws of 2021, are amended to read as
4 follows:

5 (a) On and after January first, nineteen hundred ninety-one, every
6 retail dealer shall publicly display a certificate of registration from
7 the department in each place of business in this state through which it
8 sells cigarettes ~~[ex]~~, tobacco products, or selected nicotine products
9 at retail. A retail dealer who has no regular place of business shall
10 publicly display such certificate on each of its carts, stands, trucks
11 or other merchandising devices through which it sells cigarettes ~~[ex]~~,
12 tobacco products, or selected nicotine products in this state.

13 (b) Every person who owns or, if the owner is not the operator, then
14 any person who operates one or more vending machines through which ciga-
15 rettes ~~[ex]~~, tobacco products, or selected nicotine products are sold in
16 this state, regardless of whether located on the premises of the vending
17 machine owner or, if the owner is not the operator, then the premises of
18 the operator or the premises of any other person, must register each
19 such vending machine with the department. On and after January first,
20 nineteen hundred ninety-one, a vending machine registration certificate,
21 in such form as may be prescribed by the commissioner of taxation and
22 finance, shall be affixed to each vending machine through which ciga-
23 rettes ~~[ex]~~, tobacco products, or selected nicotine products are sold in
24 this state.

25 (a) (i) Every retail dealer and every person owning or, if the owner
26 is not the operator, then any person operating one or more vending
27 machines through which cigarettes ~~[ex]~~, tobacco products, or selected
28 nicotine products are sold in this state, who is required under section
29 eleven hundred thirty-six of this chapter to file a return for the quar-
30 terly period ending on the last day of August, nineteen hundred ninety
31 or for the quarterly period ending on the last day of August in any year
32 thereafter, must file an application for registration under this section
33 with that quarterly return, in such form as shall be prescribed by the
34 commissioner.

35 (ii) Each retail dealer must pay an application fee with the quarterly
36 return of three hundred dollars for each retail place of business in
37 this state through which it sells cigarettes ~~[ex]~~, tobacco products, or
38 selected nicotine products.

39 (iii) Every person who owns or, if the owner is not the operator, then
40 any person who operates one or more vending machines through which ciga-
41 rettes ~~[ex]~~, tobacco products, or selected nicotine products are sold in
42 this state, regardless of whether located on the premises of the vending
43 machine owner or, if the owner is not the operator, then the premises of
44 the operator or the premises of any other person, must pay an applica-
45 tion fee with the quarterly return of one hundred dollars for each vend-
46 ing machine. The department will issue a registration certificate, as
47 prescribed by the commissioner, after receipt of a registration applica-
48 tion and the appropriate registration fee, prior to the next succeeding
49 January first.

50 (b) Every retail dealer and every person who owns or, if the owner is
51 not the operator, then any person who operates one or more vending
52 machines through which cigarettes ~~[ex]~~, tobacco products, or selected
53 nicotine products are sold in this state who commences business after
54 the last day of August, nineteen hundred ninety, or who commences sell-
55 ing cigarettes ~~[ex]~~, tobacco products, or selected nicotine products at
56 retail through a new or different place of business in this state after

1 such date, or who commences selling cigarettes [~~or~~], tobacco products,
2 or selected nicotine products through new or different vending machines
3 after such date, must file with the commissioner an application for
4 registration, in a form prescribed by [~~him or her~~] them, at least thirty
5 days prior to commencing business or commencing sales. Each application
6 must be accompanied by an application fee of three hundred dollars for
7 each retail place of business and one hundred dollars for each vending
8 machine to be registered. The department, within ten days after receipt
9 of an application for registration under this paragraph and payment of
10 the proper fee for application for registration, will issue a registra-
11 tion certificate, as prescribed by the commissioner, for each retail
12 place of business or cigarette [~~or~~], tobacco products, or selected nico-
13 tine products vending machine registered.

14 (d) Except as otherwise provided in this section, all the provisions
15 of article twenty-eight of this chapter relating to the personal liabil-
16 ity for the tax, administration, collection and determination of tax,
17 and deposit and disposition of revenue, including section eleven hundred
18 thirty-eight of this chapter relating to determination of tax and
19 section eleven hundred forty-five of this chapter (but only paragraphs
20 one and two of subdivision (a) of such section) relating to penalties
21 and interest for failure to file a return or pay tax within the time
22 required, shall apply to the applications for registration and the fees
23 for filing such applications required by this section and the penalty
24 imposed pursuant to subdivision three of this section, as if such appli-
25 cations were returns required under section eleven hundred thirty-six of
26 this chapter and such filing fees, penalties and interest were taxes
27 required to be paid pursuant to such article twenty-eight, in the same
28 manner and with the same force and effect as if the language of such
29 provisions of such article twenty-eight had been incorporated in full
30 into this article, except to the extent that any such provision is
31 either inconsistent with a provision of this section or is not relevant
32 thereto and with such other modifications as may be necessary to adapt
33 the language of such provisions to the provisions of this section.
34 Provided, however, that the commissioner of taxation and finance shall
35 refund or credit an application fee paid with respect to the registra-
36 tion of a vending machine or a retail place of business in this state
37 through which cigarettes [~~or~~], tobacco products, or selected nicotine
38 products were to be sold if, prior to the beginning of the calendar year
39 with respect to which such registration relates, the certificate of
40 registration described in paragraph (a) of this subdivision is returned
41 to the department of taxation and finance, or if such certificate has
42 been destroyed, the retail dealer or vending machine operator satisfac-
43 torily accounts to the commissioner for the missing certificate, but
44 such vending machine or retail place of business may not be used to sell
45 cigarettes [~~or~~], tobacco products, or selected nicotine products in this
46 state during such calendar year, unless it is re-registered. The
47 provisions of section eleven hundred thirty-nine of this chapter shall
48 apply to the refund or credit authorized by the preceding sentence and
49 for such purposes, such refund or credit shall be deemed a refund of tax
50 paid in error provided, however, no interest shall be allowed or paid on
51 any such refund.

52 3. In addition to any other penalty imposed by this chapter: (a) Any
53 retail dealer who violates the provisions of this section, after due
54 notice and an opportunity for a hearing, for a first violation is liable
55 for a civil fine not less than five thousand dollars but not to exceed
56 twenty-five thousand dollars and for a second or subsequent violation

1 within three years following a prior finding of violation is liable for
2 a civil fine not less than ten thousand dollars but not to exceed thir-
3 ty-five thousand dollars; or

4 (b) Any person who owns or, if the owner is not the operator, then any
5 person who operates one or more vending machines through which ciga-
6 rettes [~~or~~], tobacco products, or selected nicotine products are sold in
7 this state and who violates the provisions of this section, after due
8 notice and an opportunity for a hearing, for a first violation is liable
9 for a civil fine not less than seven hundred fifty dollars but not to
10 exceed two thousand dollars and for a second or subsequent violation
11 within three years following a prior finding of violation be liable for
12 a civil fine not less than two thousand dollars but not to exceed six
13 thousand dollars.

14 (c) If a retail dealer does not possess a valid registration, either
15 because it failed to obtain a registration or its registration is
16 suspended or revoked and the commissioner or their designee, pursuant to
17 their authority under this article, attempts to inspect such premises
18 for a violation of this section and such retail dealer, including an
19 agent thereof, is found, after notice and opportunity to be heard, to
20 have refused such inspection, such retail dealer shall be subject to a
21 penalty of up to four thousand dollars for a first refusal and up to
22 eight thousand dollars for a second or subsequent refusal within three
23 years of a prior refusal.

24 4. (a) If a retail dealer possesses or sells unstamped or unlawfully
25 stamped packages of cigarettes, or if a retail dealer is also licensed
26 as an agent pursuant to section four hundred seventy-two of this article
27 and it possesses unlawfully stamped packages of cigarettes or sells
28 unstamped or unlawfully stamped packages of cigarettes at retail, (i)
29 its registration shall be revoked for a period of one year, or (ii) for
30 a second such possession or sale within a period of five years by a
31 retail dealer or any affiliated person of such retail dealer, the regis-
32 tration of such retail dealer and the registration of any retail dealer
33 that is an affiliated person of such retail dealer shall be revoked for
34 a period of three years, or (iii) for a third such possession or sale
35 within a period of five years by a retail dealer or any affiliated
36 person of such retail dealer, the registration of such retail dealer and
37 the registration of any retail dealer that is an affiliated person of
38 such retail dealer shall be revoked for a period of five years. A retail
39 dealer registration shall be revoked pursuant to this subdivision imme-
40 diately upon such dealer's receipt of written notice of revocation from
41 the commissioner. If unstamped or unlawfully stamped cigarettes are
42 found in a retail dealer's warehouse or a warehouse of any affiliated
43 person of such retail dealer, the revocation of the retail dealer's
44 registration pursuant to this subdivision shall be applicable to each
45 retail place of business in this state through which such retail dealer
46 and any affiliated person of such retail dealer sells cigarettes.

47 (a-1) If a retail dealer, including an agent thereof, refuses to
48 comply with the requirements of subdivision four of section four hundred
49 seventy-four of this article its registration may be revoked (i) for a
50 period of one year, or (ii) for a second such violation within a period
51 of five years for up to three years, or (iii) for a third or subsequent
52 violation within a period of seven years for a period up to ten years. A
53 retail dealer registration shall be considered to be revoked pursuant to
54 this subdivision immediately upon such dealer's receipt of written
55 notice of revocation from the commissioner.

1 (b) A retail dealer who is notified of a revocation of its registra-
2 tion pursuant to this subdivision shall have the right to have the revo-
3 cation reviewed by the commissioner or [~~his or her~~] their designee by
4 contacting the department at a telephone number or an address to be
5 disclosed in the notice of revocation within ten days of such dealer's
6 receipt of such notification. The retail dealer may present written
7 evidence or argument in support of its defense to the revocation, or may
8 appear at a scheduled conference with the commissioner or [~~his or her~~]
9 their designee to present oral arguments and written and oral evidence
10 in support of such defense. The commissioner or [~~his or her~~] their
11 designee is authorized to delay the effective date of the revocation to
12 enable the retail dealer to present further evidence or arguments in
13 connection with the revocation. The commissioner or [~~his or her~~] their
14 designee shall cancel the revocation of registration if the commissioner
15 or [~~his or her~~] their designee is not satisfied by a preponderance of
16 the evidence that the retail dealer violated paragraph (a) or (a-1) of
17 this subdivision, as may be applicable.

18 (c) An order of revocation of a retail dealer registration shall not
19 be reviewable by the division of tax appeals, but may be reviewed pursu-
20 ant to article seventy-eight of the civil practice law and rules by a
21 proceeding commenced in the supreme court within four months of the
22 revocation of registration petitioning that the order of revocation be
23 enjoined or set aside. Such proceeding shall be instituted in the county
24 where the commissioner has [~~his or her~~] their principal office. Upon the
25 filing of such petition the court shall have jurisdiction to set aside
26 such order of revocation, in whole or in part, or to dismiss the peti-
27 tion. The jurisdiction of the supreme court shall be exclusive and its
28 order dismissing the petition or enjoining or setting aside such order,
29 in whole or in part, shall be final, subject to review by the appellate
30 division of the supreme court and the court of appeals in the same
31 manner and form and with the same effect as provided by law for appeals
32 from a judgment in a special proceeding. All such proceedings shall be
33 heard and determined by the court and by any appellate court as expe-
34 ditiously as possible and with lawful precedence over other civil
35 matters. All such proceedings for review shall be heard on the petition,
36 transcript and other papers, and on appeal shall be heard on the record,
37 without requirement of printing.

38 (d) After review of the revocation of registration by the commissioner
39 or [~~his or her~~] their designee is complete, or the time within which a
40 retail dealer may request such review has expired without such a request
41 having been made, notice of the revocation of a retail dealer registra-
42 tion pursuant to paragraph (a) of this subdivision shall be given by the
43 commissioner to the head of the division of the lottery for the purpose
44 of enforcement of section sixteen hundred seven of this chapter and such
45 division may suspend or revoke any license issued with respect to a
46 lottery agent's specific location pursuant to article thirty-four of
47 this chapter if such lottery agent is a retail dealer of cigarettes
48 whose registration for such location is suspended or revoked pursuant to
49 this section. In addition, notice of such revocation shall also be given
50 to the state liquor authority and such revocation shall constitute
51 cause, for purposes of section one hundred eighteen of the alcoholic
52 beverage control law, for revocation, cancellation or suspension of any
53 license or permit issued pursuant to such law.

54 6. (a) No retail dealer who has its retail dealer registration
55 cancelled, suspended or revoked pursuant to this section or has been
56 forbidden from selling cigarettes [~~or~~], tobacco products, or selected

1 nicotine products pursuant to paragraph (j) of subdivision one of
2 section four hundred eighty of this article shall possess cigarettes
3 [~~or~~], tobacco products, or selected nicotine products in any place of
4 business, cart, stand, truck or other merchandising device in this state
5 beginning on the tenth day after such cancellation, suspension, revoca-
6 tion, or forbiddance and continuing for the duration of the same;
7 provided however, such retail dealer shall not be prohibited before the
8 tenth day after such cancellation, suspension, revocation, or forbid-
9 dance from selling or transferring its inventory of lawfully stamped
10 cigarettes [~~or~~], tobacco products, or selected nicotine products on
11 which the taxes imposed by this article have been assumed or paid to a
12 properly registered retail dealer whose registration is not cancelled,
13 suspended, or revoked or who has not been forbidden from selling ciga-
14 rettes [~~or~~], tobacco products, or selected nicotine products.

15 (b) No retail dealer shall possess cigarettes [~~or~~], tobacco products,
16 or selected nicotine products in any place of business, cart, stand,
17 truck or other merchandising device in this state unless it has obtained
18 a valid retail dealer registration from the commissioner.

19 (c) The possession of cigarettes [~~or~~], tobacco products, or selected
20 nicotine products by an unlicensed retail dealer in violation of para-
21 graph (a) or (b) of this subdivision shall be subject to the penalties
22 authorized by subdivision three of this section.

23 § 11. Clause (B) of subparagraph (i) of paragraph (a) of subdivision
24 1, subparagraph (i) and clauses (B) and (C) of subparagraph (ii) of
25 paragraph (b) of subdivision 1, paragraphs (c) and (d) of subdivision 1
26 and subdivision 2 of section 481 of the tax law, clause (B) of subpara-
27 graph (i) of paragraph (a) of subdivision 1 and subdivision 2 as amended
28 by chapter 61 of the laws of 1989, subparagraph (i) of paragraph (b) of
29 subdivision 1 as amended by section 1 of part O of chapter 59 of the
30 laws of 2013, clauses (B) and (C) of subparagraph (ii) of paragraph (b)
31 of subdivision 1 as added by chapter 262 of the laws of 2000, paragraph
32 (c) of subdivision 1 and paragraph (a) of subdivision 2 as amended and
33 paragraph (d) of subdivision 1 as added by chapter 552 of the laws of
34 2008, are amended to read as follows:

35 (B) If a tax on cigarettes [~~or~~], on tobacco products, or on selected
36 nicotine products under this article is not paid when due by any other
37 person, the person liable for the payment of such tax shall be subject
38 to a penalty of fifty per centum of the amount of such tax determined to
39 be due as provided in this article plus one per centum of such amount
40 for each month or fraction thereof during which such failure to pay
41 continues after the expiration of the first month after such tax became
42 due.

43 (i) In addition to any other penalty imposed by this article, the
44 commissioner may (A) impose a penalty of not more than six hundred
45 dollars for each two hundred cigarettes, or fraction thereof, in excess
46 of one thousand cigarettes in unstamped or unlawfully stamped packages
47 in the possession or under the control of any person or (B) impose a
48 penalty of not more than two hundred dollars for each ten unaffixed
49 false, altered or counterfeit cigarette tax stamps, imprints or
50 impressions, or fraction thereof, in the possession or under the control
51 of any person. In addition, the commissioner may impose a penalty of not
52 more than seventy-five dollars for each fifty cigars or one pound of
53 tobacco or three hundred milligrams worth of nicotine of selected nico-
54 tine products, or fraction thereof, in excess of two hundred fifty
55 cigars or five pounds of tobacco or fifteen hundred milligrams of nico-
56 tine worth of selected nicotine products in the possession or under the

1 control of any person and a penalty of not more than one hundred fifty
2 dollars for each fifty cigars or pound of tobacco or three milligrams
3 worth of nicotine of selected nicotine products, or fraction thereof, in
4 excess of five hundred cigars or ten pounds of tobacco or three thousand
5 milligrams of nicotine worth of selected nicotine products in the
6 possession or under the control of any person, with respect to which the
7 tobacco products tax or selected nicotine products tax has not been paid
8 or assumed by a distributor or tobacco products dealer or selected nico-
9 tine products dealer; provided, however, that any such penalty imposed
10 shall not exceed seven thousand five hundred dollars in the aggregate.
11 The commissioner may impose a penalty of not more than seventy-five
12 dollars for each fifty cigars or one pound of tobacco or three hundred
13 milligrams of nicotine worth of selected nicotine products, or fraction
14 thereof, in excess of fifty cigars or one pound of tobacco or three
15 hundred milligrams of nicotine worth of selected nicotine products in
16 the possession or under the control of any tobacco products or selected
17 nicotine products dealer or distributor appointed by the commissioner,
18 and a penalty of not more than one hundred fifty dollars for each fifty
19 cigars or pound of tobacco or three hundred milligrams worth of nicotine
20 of selected nicotine products, or fraction thereof, in excess of two
21 hundred fifty cigars or five pounds of tobacco or fifteen hundred milli-
22 grams of nicotine worth of selected nicotine products in the possession
23 or under the control of any such dealer or distributor, with respect to
24 which the tobacco products tax or selected nicotine products tax has not
25 been paid or assumed by a distributor or a tobacco products or selected
26 nicotine products dealer; provided, however, that any such penalty
27 imposed shall not exceed fifteen thousand dollars in the aggregate.

28 (B)(I) not less than twenty-five dollars but not more than one hundred
29 dollars for each fifty cigars or one pound of tobacco or three hundred
30 milligrams worth of nicotine of selected nicotine products, or fraction
31 thereof, in excess of two hundred fifty cigars or five pounds of tobacco
32 or fifteen hundred milligrams worth of nicotine of selected nicotine
33 products knowingly in the possession or knowingly under the control of
34 any person, with respect to which the tobacco products tax or selected
35 nicotine products tax has not been paid or assumed by a distributor or
36 tobacco products or selected nicotine products dealer; and

37 (II) not less than fifty dollars but not more than two hundred dollars
38 for each fifty cigars or pound of tobacco or three hundred milligrams
39 worth of nicotine of selected nicotine products, or fraction thereof, in
40 excess of five hundred cigars or ten pounds of tobacco or three thousand
41 milligrams worth of nicotine of selected nicotine products knowingly in
42 the possession or knowingly under the control of any person, with
43 respect to which the tobacco products tax or selected nicotine products
44 tax has not been paid or assumed by a distributor or tobacco products or
45 selected nicotine products dealer; provided, however, that any such
46 penalty imposed under this clause shall not exceed ten thousand dollars
47 in the aggregate.

48 (C)(I) not less than twenty-five dollars but not more than one hundred
49 dollars for each fifty cigars or one pound of tobacco or three hundred
50 milligrams worth of nicotine of selected nicotine products, or fraction
51 thereof, in excess of fifty cigars or one pound of tobacco or three
52 hundred milligrams worth of nicotine of selected nicotine products know-
53 ingly in the possession or knowingly under the control of any person,
54 with respect to which the tobacco products tax or selected nicotine
55 products tax has not been paid or assumed by a distributor or tobacco
56 products or selected nicotine products dealer; and

1 (II) not less than fifty dollars but not more than two hundred dollars
2 for each fifty cigars or pound of tobacco or three hundred milligrams
3 worth of nicotine of selected nicotine products, or fraction thereof, in
4 excess of two hundred fifty cigars or five pounds of tobacco or fifteen
5 hundred milligrams worth of nicotine of selected nicotine products know-
6 ingly in the possession or knowingly under the control of any person,
7 with respect to which the tobacco products tax or selected nicotine
8 products tax has not been paid or assumed by a distributor or a tobacco
9 products or selected nicotine products dealer; provided, however, that
10 any such penalty imposed under this clause shall not exceed twenty thou-
11 sand dollars in the aggregate.

12 (c) In addition to any other penalties that may be imposed by law, the
13 commissioner may impose a civil penalty not to exceed five thousand
14 dollars against any tobacco product manufacturer or selected nicotine
15 product manufacturer or cigarette tax agent who violates the provisions
16 of section four hundred eighty-b of this article, including but not
17 limited to the filing of a false certification, and may seek to suspend
18 or cancel any license, registration or appointment which has been issued
19 to such person pursuant to this chapter.

20 (d) In addition to any other penalties that may be imposed by law, the
21 commissioner may impose a civil penalty not to exceed five thousand
22 dollars against any tobacco product or selected nicotine product
23 manufacturer or distributor who violates the provisions of section four
24 hundred eighty-c of this article, including but not limited to the
25 filing of a false certification, and may seek to suspend or cancel any
26 license, registration or appointment that has been issued to the tobacco
27 product or selected nicotine product manufacturer or distributor under
28 this chapter.

29 2. (a) The possession within this state of more than four hundred
30 cigarettes in unstamped or unlawfully stamped packages or more than two
31 hundred fifty cigars, or more than five pounds of tobacco other than
32 roll-your-own tobacco, or more than thirty-six ounces of roll-your-own
33 tobacco, or more than fifteen hundred milligrams worth of nicotine of
34 selected nicotine products by any person other than an agent or distrib-
35 utor, as the case may be, at any one time shall be presumptive evidence
36 that such cigarettes or tobacco products or selected nicotine products
37 are subject to tax as provided by this article.

38 (b) Nothing in this section shall apply to common or contract carriers
39 or [~~warehousemen~~] warehouse workers while engaged in lawfully transport-
40 ing or storing tobacco products or selected nicotine products or
41 unstamped packages of cigarettes as merchandise, nor to any employee of
42 such carrier or [~~warehouseman~~] warehouse worker acting within the scope
43 of [~~his~~] their employment, nor to public officers or employees in the
44 performance of their official duties requiring possession or control of
45 tobacco products or selected nicotine products or unstamped or unlaw-
46 fully stamped packages of cigarettes, nor to temporary incidental
47 possession by employees or agents of persons lawfully entitled to
48 possession, nor to persons whose possession is for the purpose of aiding
49 police officers in performing their duties.

50 § 12. This act shall take effect immediately.