

Home Rule Message No. 7-2014

Laid on Table 6/3/2014

Introduced by Legislator D'Amaro on request of the County Executive and Legislators Cilmi, Muratore, Browning

**HOME RULE MESSAGE REQUESTING THE STATE OF
NEW YORK TO ENACT LEGISLATION AUTHORIZING A
MOTOR FUEL TAX PILOT PROGRAM (SENATE BILL NO.
S.7251 AND ASSEMBLY BILL NO. A.9839)**

WHEREAS, legislation has been introduced in the New York State Legislature that would authorize a "Motor Fuel Tax Pilot Program" in Nassau and Suffolk Counties; and

WHEREAS, this proposed State Legislation would compute sales and compensating use taxes on the sale of motor fuel and diesel motor fuel in Nassau and Suffolk Counties on a cents per gallon rate and, further, require distributors to collect state and local sales taxes from retailers up front and remit the proceeds to the State; and

WHEREAS, it is anticipated that these proposed changes in the method of sales tax collection will protect the County from certain unscrupulous retailers who under pay sales taxes and increase the County's sales tax revenues; and

WHEREAS, this proposed State legislation would also provide administrative relief to gasoline retailers who currently are required to calculate daily reconciliations and remit sales taxes to the State on a quarterly basis; and

WHEREAS, this pilot program will expire on June 1, 2016; now, therefore, be it

1st RESOLVED, that this Legislature hereby supports New York State Senate Bill No. S.7251 and Assembly Bill No. A.9839 to enact a motor fuel tax pilot program that will compute sales and compensating use tax on motor fuel and diesel motor fuel at a rate of cents per gallon in Suffolk County and require distributors of motor fuel to collect sales taxes from retailers up front; and be it further

2nd RESOLVED, that the Clerk of this Legislature is hereby directed to forward copies of this Resolution to Governor Andrew M. Cuomo; to the Majority Leader of the New York State Senate Dean Skelos; to the Speaker of the New York State Assembly Sheldon Silver; to the Minority Leaders of the New York State Senate and the New York State Assembly; and to each member of the Long Island delegation to the New York State Legislature.

DATED: June 3, 2014

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY



This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on June 3, 2014 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Tim Laube

Clerk of the Legislature

Intro. Res. HR 7

Res. No.

June 3, 2014

Motion:

Krupski, Schneiderman, Browning, Muratore, Hahn
 Anker, Calarco, Lindsay, Martinez, Cilmi, Barraga, Kennedy
 Trotta, McCaffrey, Gregory, Stern, D'Amaro, Spencer

Co-Sponsors:

Krupski, Schneiderman, Browning, Muratore, Hahn
 Anker, Calarco, Lindsay, Martinez, Cilmi, Barraga, Kennedy
 Trotta, McCaffrey, Gregory, Stern, D'Amaro, Spencer

Second:

Krupski, Schneiderman, Browning, Muratore, Hahn
 Anker, Calarco, Lindsay, Martinez, Cilmi, Barraga, Kennedy
 Trotta, McCaffrey, Gregory, Stern, D'Amaro, Spencer

LD	Legislator	Yes	No	Abs	NP	R
1	Albert J. KRUPSKI					
3	Kate M. BROWNING					
4	Thomas MURATORE					
5	Kara HAHN					
6	Sarah S. ANKER					
7	Rob CALARCO					
8	William J. LINDSAY, III					
9	Monica R. MARTINEZ					
10	Thomas CILMI					
11	Thomas F. BARRAGA					
12	John M. KENNEDY, JR.					
13	Rob TROTTA					
14	Kevin J. MCCAFFREY					
16	Steven H. STERN					
17	Lou D'AMARO					
18	William SPENCER					
2	Jay SCHNEIDERMAN, D.P.O					
15	DuWayne GREGORY, P.O.					
	Totals	18	0	0	0	0

MOTION
<input checked="" type="checkbox"/> Approve
Table: _____
<input type="checkbox"/> Send To Committee
<input type="checkbox"/> Table Subject To Call
<input type="checkbox"/> Lay On The Table
<input type="checkbox"/> Discharge
<input type="checkbox"/> Take Out of Order
<input type="checkbox"/> Reconsider
<input type="checkbox"/> Waive Rule _____
<input type="checkbox"/> Override Veto
<input type="checkbox"/> Close
<input type="checkbox"/> Recess
APPROVED <input checked="" type="checkbox"/> FAILED _____
No Motion _____ No Second _____

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
<input type="checkbox"/> NOT ADOPTED

Tim Laube

Tim Laube, Clerk of the Legislature

Roll Call _____ Voice Vote

STATE OF NEW YORK

7251

IN SENATE

May 7, 2014

Introduced by Sen. BOYLE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to computing sales and compensating use tax on retail sales of motor fuel and diesel motor fuel at a rate of cents per gallon in Suffolk county and Nassau county; 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. This act shall be known and may be cited as the "County
2 motor fuel tax pilot program".

3 § 2. Subdivision (m) of section 1111 of the tax law is amended by
4 adding a new paragraph 8 to read as follows:

5 (8) The sales and compensating use taxes imposed by subpart B of part
6 one of article twenty-nine of this chapter in regard to retail sales of
7 motor fuel and diesel motor fuel, in the counties of Suffolk and Nassau,
8 shall be computed, as determined quarterly by the commissioner, at a
9 rate of cents per gallon, rounded to the nearest cent, as determined by
10 the counties respectively, multiplied by the cost of the fuel.

11 § 3. Paragraph 2 of subdivision (e) of section 1111 of the tax law is
12 amended by adding a new subparagraph (iii) to read as follows:

13 (iii) Where motor fuel is imported, manufactured or sold in, or diesel
14 motor fuel is sold or used in the county of Suffolk or the county of
15 Nassau, the sales and compensating use taxes imposed by subpart B of
16 part one of article twenty-nine of this chapter as computed pursuant to
17 subdivision (m) of this section shall be prepaid pursuant to section
18 eleven hundred two of this article on each gallon of fuel.

19 § 4. This act shall take effect immediately and shall expire and be
20 deemed repealed June 1, 2016.

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

LBD13900-03-4

SPONSORS MEMO:

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S7251

SPONSOR: BOYLE

TITLE OF BILL: An act to amend the tax law, in relation to computing sales and compensating use tax on retail sales of motor fuel and diesel motor fuel at a rate of cents per gallon in Suffolk county and Nassau county; and providing for the repeal of such provisions upon expiration thereof

PURPOSE OR GENERAL IDEA OF BILL:

Computes sales and compensating use tax on retail sales of motor fuel and diesel motor fuel at a rate of cents per gallon in Suffolk and Nassau counties.

SUMMARY OF SPECIFIC PROVISIONS:

Section one creates the name of the "County motor fuel tax pilot program." Section 2 amends subdivision (m) of section 1111 by adding a new paragraph 8 to require the commissioner of Tax and Finance to quarterly compute the sales tax rate in cents per gallon as determined by the cost of fuel in Nassau and Suffolk counties.

Section 3 amends subdivision (e) of section 1111 of the tax law by adding new subparagraph (iii) to require the sales and compensating use taxes imposed by subpart b of part one of article twenty-in shall be fully prepaid.

JUSTIFICATION:

This bill will not increase the sales tax on motor fuel. It protects against county governments losing motor fuel sales tax revenue due to fraud or error by converting in these counties the local sales tax rate to a cents per gallon rate and requiring prepayment of these taxes. By requiring all sales tax on motor fuel be prepaid, this legislation will ensure that the full county portion of the sales tax is collected by the distributor from the retailer up front, thereby protecting the counties from some retailers who are not currently paying the appropriate amount in local sales tax. As a result, it is anticipated that this legislation will increase sales tax revenue to these county governments. Certain unscrupulous gasoline retailers that take advantage of this differential in collections and underpaying local sales taxes are placing law-abiding and fully-compliant retailers at a competitive disadvantage. Currently, the state requires 100% of the state's portion of the sales tax be paid by retailers to distributors and then remitted by distributor to the state. By requiring that the full state AND local sales tax be collected up front by distributors, this bill will ensure a fairer retail gas market while increasing revenue to these counties. Further, the requirement to fully prepay all sales taxes will provide administrative relief to motor fuel retailers who currently need to calculate daily reconciliations and file sales taxes owed on a quarterly basis.

PRIOR LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS:

None to the state. Increased revenue for county governments.

EFFECTIVE DATE:

This act shall take effect immediately and shall expire and be deemed repealed June 1, 2016.

BILL TEXT:

STATE OF NEW YORK

9839

IN ASSEMBLY

May 27, 2014

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

AN ACT to amend the tax law, in relation to computing sales and compensating use tax on retail sales of motor fuel and diesel motor fuel at a rate of cents per gallon in Suffolk county and Nassau county; 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. This act shall be known and may be cited as the "County
2 motor fuel tax pilot program".

3 § 2. Subdivision (m) of section 1111 of the tax law is amended by
4 adding a new paragraph 8 to read as follows:

5 (8) The sales and compensating use taxes imposed by subpart B of part
6 one of article twenty-nine of this chapter in regard to retail sales of
7 motor fuel and diesel motor fuel, in the counties of Suffolk and Nassau,
8 shall be computed, as determined quarterly by the commissioner, at a
9 rate of cents per gallon, rounded to the nearest cent, as determined by
10 the counties respectively, multiplied by the cost of the fuel.

11 § 3. Paragraph 2 of subdivision (e) of section 1111 of the tax law is
12 amended by adding a new subparagraph (iii) to read as follows:

13 (iii) Where motor fuel is imported, manufactured or sold in, or diesel
14 motor fuel is sold or used in the county of Suffolk or the county of
15 Nassau, the sales and compensating use taxes imposed by subpart B of
16 part one of article twenty-nine of this chapter as computed pursuant to
17 subdivision (m) of this section shall be prepaid pursuant to section
18 eleven hundred two of this article on each gallon of fuel.

19 § 4. This act shall take effect immediately and shall expire and be
20 deemed repealed June 1, 2016.

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

LBD13900-03-4

SPONSORS MEMO:

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(e)**

BILL NUMBER: A9839

SPONSOR: Hennessey

TITLE OF BILL: An act to amend the tax law, in relation to computing sales and compensating use tax on retail sales of motor fuel and diesel motor fuel at a rate of cents per gallon in Suffolk county and Nassau county; and providing for the repeal of such provisions upon expiration thereof

PURPOSE OR GENERAL IDEA OF BILL:

Computes sales and compensating use tax on retail sales of motor fuel and diesel motor fuel at a rate of cents per gallon in Suffolk and Nassau counties.

SUMMARY OF SPECIFIC PROVISIONS:

Section one creates the name of the "County motor fuel tax pilot program."

Section 2 amends subdivision (m) of section 1111 by adding a new paragraph 8 to require the commissioner of Tax and Finance to quarterly compute the sales tax rate in cents per gallon as determined by the cost of fuel in Nassau and Suffolk counties.

Section 3 amends subdivision (e) of section 1111 of the tax law by adding new subparagraph (iii) to require the sales and compensating use taxes imposed by subpart b of part one of article twenty-in shall be fully prepaid.

JUSTIFICATION:

This bill will not increase the sales tax on motor fuel. It protects against county governments losing motor fuel sales tax revenue due to fraud or error by converting in these counties the local sales tax rate to a cents per gallon rate and requiring prepayment of these taxes. By requiring all sales tax on motor fuel be prepaid, this legislation will ensure that the full county portion of the sales tax is collected by the distributor from the retailer up front, thereby protecting the counties from some retailers who are not currently paying the appropriate amount in local sales tax. As a result, it is anticipated that this legislation will increase sales tax revenue to these county governments. Certain unscrupulous gasoline retailers that take advantage of this differential in collections and underpaying local sales taxes are placing law-abiding and fully-compliant retailers at a competitive disadvantage. Currently, the state requires 100% of the state's portion of the sales tax be paid by retailers to distributors and then remitted by distributor to the state. By requiring that the full state AND local sales tax be collected up front by distributors, this bill will ensure a fairer retail gas market while increasing revenue to these counties. Further, the requirement to fully prepay all sales taxes will provide administrative relief to motor fuel retailers who currently need to calculate daily reconciliations and file sales taxes owed on a quarterly basis.

PRIOR LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS:

None to the state. Increased revenue for county governments.

EFFECTIVE DATE:

This act shall take effect immediately and shall expire and be deemed repealed June 1, 2016.
