

**HOME RULE MESSAGE NO. REQUESTING THE STATE OF
NEW YORK TO AMEND THE TAX LAW TO AUTHORIZE
SUFFOLK COUNTY TO IMPOSE A TAX ON TOBACCO
PRODUCTS (SENATE BILL S.4989/ASSEMBLY BILL A08028)**

WHEREAS, Senate Bill 4989 and Assembly Bill A08028, authorize an increase in the tax on tobacco products in Suffolk County for the purpose of deterring tobacco product use and addressing fiscal difficulties; and

WHEREAS, ten percent of the taxes collected will be deposited with the Suffolk County Department of Health and devoted exclusively to tobacco control programs to deter people from using tobacco products; and

WHEREAS, ninety percent of the taxes collected will be deposited into the general fund of Suffolk County which will help Suffolk County cope with fiscal difficulties it is presently facing; and

WHEREAS, Suffolk County will have the authority to lower the tax in the future as it is deemed appropriate; and

WHEREAS, an amendment to the New York Tax Law is required in order to authorize Suffolk County to increase the tax on tobacco products; now, therefore, be it

1st **RESOLVED**, that this Legislature, in accordance with the provisions of Section 40 of the NEW YORK MUNICIPAL HOME RULE LAW, and joining with the County Executive, hereby finds and declares the necessity for the enactment of Senate Bill 4989 and Assembly Bill 08028 (copies of which are attached hereto) which authorize Suffolk County to increase the tax on tobacco products; and be it further

2nd **RESOLVED**, that the Clerk of the Legislature is hereby directed to forward copies of this resolution to Hon. David A. Paterson, Governor; to the Hon. Malcolm Smith, Majority Leader of the New York State Senate; to the Hon. Sheldon Silver, Speaker of the New York State Assembly; 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: May 12, 2009

Home Rule Message 12 -2009 Laid on Table 5/12/09
Introduced by the Presiding Officer, on Request of the County Executive

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DATED: _____, 2009

S4989 FOLEY Same as A 8028 Eddington
ON FILE: 04/30/09 Tax Law
TITLE....Authorizes Suffolk county to impose a tax on tobacco products
04/27/09 REFERRED TO INVESTIGATIONS AND GOVERNMENT OPERATIONS
05/05/09 REPORTED AND COMMITTED TO FINANCE

FOLEY
Add S471-f, Tax L
Authorizes Suffolk county to impose a tax on tobacco products.

STATE OF NEW YORK

4989

2009-2010 Regular Sessions

IN SENATE

April 27, 2009

Introduced by Sen. FOLEY -- 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 authorizing Suffolk county to impose a tax on tobacco products

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

1 Section 1. The tax law is amended by adding a new section 471-f to
2 read as follows:

3 § 471-f. Imposition of tobacco products tax in Suffolk county. 1.
4 Notwithstanding any other provision of law to the contrary, and at the
5 request of its county executive and local legislative body, Suffolk
6 county, acting through its local legislative body, is hereby authorized
7 and empowered to adopt and amend local laws imposing in Suffolk county
8 taxes on cigarettes, cigars, or smoking tobacco such as the legislature
9 has or would have power and authority to impose. Such taxes may be
10 collected and administered by the fiscal officer of such county by such
11 means and in such manner as may be provided by such local laws. The
12 taxes may be imposed on the use, sale, exchange, transfer, storage,
13 withdrawal, possession or retention of cigarettes, cigars or smoking
14 tobacco, provided, however, that nothing in this section shall authorize
15 the imposition of a tax on the use, retention (other than for sale) of
16 two hundred cigarettes or less, of fifty cigars or less, or of two
17 pounds of smoking tobacco or less brought into the county on, or in
18 possession of, any person.

19 a. The rate of such tax on cigarettes shall not exceed one dollar for
20 each ten cigarettes or fraction thereof, provided however, that if a
21 package of cigarettes contains more than twenty cigarettes, the rate of
22 tax on the cigarettes in such package in excess of twenty shall not
23 exceed fifty cents for each five cigarettes or fraction thereof. Such

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

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S. 4989

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1 tax is intended to be imposed only once on the same package of ciga-
2 rettes.

3 b. The rate of such tax on cigars shall not exceed one cent on each
4 cigar sold at a price of not less than seven cents and not more than
5 fifteen cents; shall not exceed two cents on each cigar sold at a price
6 of not less than sixteen cents and not more than twenty-nine cents; and
7 shall not exceed three cents on each cigar sold at a price of thirty
8 cents or more. Where more than one cigar is sold, whether or not in a
9 package, box or container, such tax shall be applied to each cigar on
10 the basis of the price applicable to each cigar. The tax shall not be
11 applicable to cigars sold at a price less than seven cents a cigar.

12 c. The rate of such tax on smoking tobacco shall not exceed one cent
13 for each twenty cents or fraction thereof of the price at which such
14 smoking tobacco is sold.

15 2. As used in this section, the term "cigarette" shall mean and
16 include any roll for smoking made wholly or in part of tobacco or of any
17 other substance, irrespective of size or shape and whether or not such
18 tobacco or substance is flavored, adulterated or mixed with any other
19 ingredient, the wrapper or cover of which is made of paper or any other
20 substance or material except tobacco.

21 3. A tax imposed pursuant to this section shall have application only
22 within the territorial limits of Suffolk county and shall be in addition
23 to any and all other taxes. The method of collecting any tax imposed
24 pursuant to this section, either with or without adhesive or meter
25 stamps, shall be subject to the approval of the department.

26 4. Any tax imposed pursuant to this section shall be refunded whenever
27 any cigarettes upon which the tax has been paid have been sold and
28 shipped into another state for sale or use there.

29 5. No tax imposed pursuant to this section shall apply to the sale of
30 cigarettes under such circumstances that this state is without power to
31 impose such tax or to cigarettes sold to the United States or to ciga-
32 rettes sold to or by a voluntary unincorporated organization of the
33 armed forces of the United States operating a place for the sale of
34 goods pursuant to regulations promulgated by the appropriate executive
35 agency of the United States.

36 6. Ninety percent of the taxes collected pursuant to this section
37 shall be deposited into the general fund of Suffolk county. The remain-
38 ing ten percent of the taxes collected shall be deposited with the
39 Suffolk county department of health and used exclusively for tobacco
40 control programs. The chief fiscal officer of the county shall compute,
41 on a quarterly basis, the amount of taxes collected pursuant to this
42 section and shall cause the appropriate amount to be forwarded to the
43 Suffolk county department of health.

44 § 2. This act shall take effect immediately.

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

BILL NUMBER: S4989

SPONSOR: FOLEY

TITLE OF BILL:

An act to amend the tax law, in relation to authorizing Suffolk county to impose a tax on tobacco products

PURPOSE:

This legislation would allow Suffolk to impose a tax on tobacco products up to certain levels.

SUMMARY OF SPECIFIC PROVISIONS:

Section 1 Authorizes the imposition of a tobacco products tax in Suffolk County and gives the specific tax levels for individual tobacco products. Such taxes may be collected and administered by the fiscal officer of such county by such means and in such manner as may be provided by such local laws.

Ninety percent of the taxes collected shall be deposited into the general fund of Suffolk County. The remaining ten percent of the taxes collected shall be deposited with the Suffolk County Department of Health and used exclusively for tobacco control programs.

Section 2 authorizes this act shall take effect immediately.

JUSTIFICATION:

This legislation would give the Suffolk County Legislature the ability to raise the county tax on tobacco products. The Suffolk County Executive and Legislature requested that this authority be granted to help deal with the fiscal difficulties Suffolk County is currently facing. The bill also gives the County Legislature the authority to lower the tax at a future point should they deem such action appropriate. The ties between tobacco products and lung cancer and heart disease are undeniable. Allowing Suffolk County to increase the tax placed upon tobacco products could play a role in both prohibiting people from picking up smoking as well as giving smokers an incentive to quit.

FISCAL IMPLICATIONS:

None to the State.

EFFECTIVE DATE:

Immediately.

Intro. Res. HR 12

Res. No.

May 12, 2009

Motion:

Romaine, Schneiderman, Browning, Beedenbender, Losquadro
Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:

Romaine, Schneiderman, Browning, Beedenbender, Losquadro
Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:

Romaine, Schneiderman, Browning, Beedenbender, Losquadro
Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE	/				
2	Jay H. SCHNEIDERMAN	/				
3	Kate M. BROWNING	/				
4	Brian BEEDENBENDER	/				
6	Daniel P. LOSQUADRO	/				
7	Jack EDDINGTON		/			
9	Ricardo MONTANO	/				
10	Cameron ALDEN		/			
11	Thomas F. BARRAGA	/				
12	John M. KENNEDY, JR.		/			
13	Lynne C. NOWICK	/				
14	Wayne R. HORSLEY		/			
15	DuWayne GREGORY	/				
16	Steven H. STERN	/				
17	Lou D'AMARO		/			
18	Jon COOPER	/				
5	Vivian VILORIA-FISHER, D.P.O.	/				
8	William J. LINDSAY, P.O.	/				
	Totals	13	5			

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

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

Tim Laube

Tim Laube, Clerk of the Legislature

Roll Call Voice Vote ___