Legislation Details (With Text)

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Title: A Local Law to amend the administrative code of the city of New York, in relation to the posting of a list of clothing and footwear items exempt from New York State and New York City sales tax.

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Date	Ver.	Action By	Action	Result
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Int. No. 965

By the Speaker (Council Member Vallone) and Council Members Berman, Clarke, Malave-Dilan, Henry, Marshall, Michels, Nelson, Golden and Stabile; also Council Members Eisland, Eldridge, Fisher, Freed, Koslowitz, Leffler, McCaffrey, O'Donovan, Povman, Robles and Abel

A Local Law to amend the administrative code of the city of New York, in relation to the posting of a list of clothing and footwear items exempt from New York State and New York City sales tax.

Be it enacted by the Council a follows:

Section 1. Legislative Findings. The New York State Legislature passed and the Governor signed into law, a provision permanently exempting clothing, footwear and items used or consumed to make or repair clothing costing less than $110 from the 4% State sales and compensating use tax. The legislation that provides for the State sales tax exemption also permits counties and cities having a local sales tax to permanently exempt the purchases and uses of such clothing and footwear items from such local sales tax. On June 7, 1999, the City Council adopted Resolution No. 828 which lifted New York City's local sales tax on these items. The City and State sales tax exemption took effect on March 1, 2000.

In summer of 2000, the City Council's Office of Oversight and Investigation conducted a survey which demonstrated that many large and small retailers in the City were assessing sales tax on items which have been exempted by law. In February, the City Council conducted a follow-up survey which showed that merchants were continuing to assess sales tax on items that were clearly

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exempted.

Despite a City Council-sponsored round table discussion with retail and business groups, and dissemination of the Council survey results, another City Council survey conducted in June and July indicates that merchants, both small and large, are still assessing sales tax, nearly a year and half after the tax exemption covering clothing and footwear items under $110 went into effect. The assessment of the sales tax by these and other retailers denies consumers the tax benefit intended by law. In order to protect consumers from improperly being assessed sales tax, this legislation would inform consumers which items are tax exempt and which are not tax exempt.

§2. Title 20 of chapter 4 of the administrative code of the city of New York is hereby amended by adding a new subchapter 11, to read as follows:

SUBCHAPTER 11

POSTING A LIST OF CLOTHING AND FOOTWEAR ITEMS EXEMPT FROM SALES TAX

§ 20-696 a. **Definitions.** Whenever used in this subchapter, the phrase "exempt clothing, footwear and items used to make or repair exempt clothing" shall mean those items defined by the New York State department of taxation and finance and the codes, rules and regulations of the State of New York.

b. **Posting of a list of clothing and footwear items that are exempt from sales tax**. 1. The department shall, in consultation with the department of finance, adopt rules requiring a list to be conspicuously posted at the point of sale in all retail establishments which sell or offer for sale exempt clothing, footwear and items used to make or repair exempt clothing. Such posting shall consist of a list contained in the rules or regulations promulgated by the New York State department of taxation and finance detailing which items are tax exempt and which items are not tax exempt or, in the absence of such rules or regulations, of a list contained in advisory memoranda or other guidance issued by such department.

c. **Violations; penalties.** 1. Any person who violates any of the provisions of this subchapter or any of the rules promulgated hereunder shall be punishable by a fine of not more than five hundred dollars for each violation.

2. In addition to employees of the department, employees of the department of finance shall have the power to enforce the provisions of this subchapter and may issue notices of violation, appearance tickets or summonses for violations thereof.

3. This local law shall take effect one hundred twenty days after its enactment into law provided, however, that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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