



Legislation Text

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

Be it enacted by the Council as follows:

Section 1. Legislative Findings. In early 2000, New York State changed its tax law to permanently exempt clothing and footwear costing \$110 or less per item from the State 4% “sales and compensating use” tax. At roughly the same time, New York City enacted a resolution to lift its own 4% sales tax on these items, additionally freeing itself from the State’s 0.25% Metropolitan Commuter Transportation District tax. All told, as of March 1, 2000, New York City shoppers have been relieved of the City and State 8.25% sales tax on clothing and footwear costing \$110 or less. However, the Council finds that many retail merchants around the City have continued to impose such taxes on unsuspecting consumers.

Since the summer of 2000, the City Council has conducted four surveys of large and small retailers to determine whether they are levying sales tax on tax-free items. The results have been consistent: at least one-third of stores surveyed persists in imposing nonexistent sales taxes. The most recent investigation, concluded in September 2002, found that 34% of retailers surveyed assessed sales tax on at least one tax-exempt item.

The Council finds that the assessment of the sales tax by these and other retailers denies consumers the tax benefit intended by law and may deprive the City of the economic boost intended by the tax break. This legislation would protect consumers from improperly being charged sales tax by requiring retail merchants to post a list of tax-exempt clothing and footwear items. Both consumers and merchants would thus have a clear

understanding of whether certain items are tax-free.

§2. Chapter 4 of Title 20 of the administrative code of the city of New York is hereby amended by adding a new subchapter 12, to read as follows:

SUBCHAPTER 12

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

§ 20-698 a. **Definition.** “Exempt clothing, footwear and items used to make or repair such clothing” shall mean those items of clothing and footwear that are not subject to City or State sales taxes, as defined in the New York Tax Law, or otherwise defined in the codes, rules and regulations of the State of New York.

b. **Posting of a list of clothing and footwear items exempt from sales tax.**

Any person that offers to or does sell at retail any clothing, footwear, or items used to make or repair such clothing shall conspicuously post, at or adjacent to any counter over which such goods are sold, a list of all exempt clothing, footwear, and items used to make or repair such clothing. Such posting shall consist of the most current list of such exempt items issued by the New York State department of taxation and finance in rules, regulations or other written departmental guidance.

c. **Regulations.** The commissioner shall, in consultation with the commissioner of finance, promulgate such regulations as shall be necessary to effectuate the purposes of this subchapter.

d. **Penalties.** Any person who violates any of the provisions of this subchapter or regulations promulgated pursuant to this subchapter shall pay a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars for the first offense and for each succeeding offense a penalty of not less than five hundred dollars nor more than seven hundred fifty dollars. For the purposes of this section, if on any single day the current list of exempt clothing, footwear and items used to make or repair such clothing is not displayed in accordance with this subchapter or regulations promulgated pursuant to this subchapter, it shall be considered a single violation.

e. **Enforcement.** In addition to employees of the department of consumer affairs, designated employees of the

department of finance shall have the power to enforce the provisions of this subchapter.

§3. This local law shall take effect ninety 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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