



DAILY NEWS CLIPS

June 18, 2012

TOBACCO SHOP FILES LAWSUIT AGAINST STATE

By The Associated Press
The Seattle Times
June 15, 2012

Several roll-your-own tobacco shops have filed a lawsuit over a new state law that seeks to impose new taxes on roll-your-own cigarettes.

The lawsuit filed Friday names the state Department of Revenue and the state Liquor Control Board as defendants.

The lawsuit was filed in Franklin County by Dana Henne; 1/2 Price Smokes, Inc. and RYO Machine, LLC. They contend the new taxes violate Initiative 1053, which was passed in 2010 and requires a 2/3rds vote of the state Legislature to raise taxes.

The state has about 65 independent roll-your-own tobacco stores.

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ROLL-YOUR-OWN CIGARETTE USER, SMOKE SHOP SUE STATE OVER TAX

By Kristin M. Kraemer
Tri-City Hearld (WA)
June 17, 2012

A Pasco consumer of roll-your-own cigarettes and a Kennewick smoke shop are suing the state over a new tax they say is invalid.

Right now, smokers don't have to pay state taxes when they use a machine that fills empty cigarette tubes with loose-leaf tobacco. The "RYO Filling Station" is in 65 stores across the state and is operated by consumers, similar to an automatic teller machine.

But a new law signed by Gov. Chris Gregoire that goes into effect July 1 will require taxes be paid by the retailer and the purchaser for each cigarette filled.

Taxes already are paid on the loose tobacco and the tubes, and the lawsuit contends paying additional taxes on the finished cigarettes is unwarranted and excessive.

The lawsuit, filed last week in Franklin County Superior Court, claims that the Washington Constitution and state law were violated when Gregoire approved the bill.

The measure passed the House during this year's regular legislative session, but didn't make it out of the Senate. Yet, "the defeated (House Bill) 2565 somehow was pushed to the governor" who signed the invalid bill, resulting in "an unconstitutional attempt to impose taxation on the people," court documents say.

The bill violates Initiative 1053, which passed in 2010 and requires a two-thirds vote of the Legislature to pass any new taxes.

The lawsuit was filed by Dana Henne of Pasco, 1/2 Price Smokes, which is on Clearwater Avenue, and RYO Machine, LLC, the Ohio company that makes the rolling devices.

The defendants named in the complaint are: the state of Washington; Brad Flaherty, director of the state Department of Revenue; and Pat Kohler, administrative director of the state Liquor Control Board.

"Small business owners like me are struggling to survive in today's uncertain economy," said Gary Alexander, owner of 1/2 Price Smokes, in a news release. "The new taxes are a job killer. They clobber small business."

Henne suffers from arthritis and reportedly turned to the machines to help her make her own cigarettes, instead of rolling them by hand. The machines can roll a carton of cigarettes in about 10 minutes at half the price of pre-packaged cigarettes.

Under the new law, Henne would have to pay an additional \$30.25 for 200 cigarettes, documents say.

Dan Sytman, a spokesman for the state Attorney General's Office, said officials on Friday had not yet seen a copy of the lawsuit. The state has 20 days to respond to the lawsuit after being served.

"The duty of the Washington State Attorney General's Office is to defend state laws, whether those laws are passed by the Legislature or directly through the initiative process," he told the Herald. "As we do with all other state laws, we will defend this new law regarding roll-your-own cigarettes."

Gregoire told reporters in late March that she supports collecting the tax, the Tacoma News Tribune earlier reported. The paper cited the bill's fiscal note in reporting that the average price for a roll-your-own carton would go from \$34.50 to \$67.60, resulting in more than \$12 million in increased revenue for the state in the first year, and about \$13 million annually after that.

The legislation was signed May 2.

While the case is pending, roll-your-own retailers are asking a Franklin County judge to issue a preliminary injunction preventing the state from levying the new tax. A hearing on the issue is set June 25.

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OPPONENTS OF STATE'S LOOMING ROLL-YOUR-OWN CIGARETTE TAX FILE LAWSUIT TO STOP IT

By Matt Driscoll
Seattle Weekly
June 15, 2012

With the state preparing to tax roll-your-own cigarette machines the same way it taxes retail cigarettes come July 1, thanks to law passed by the state legislature earlier this year, a recently-filed lawsuit in Franklin County aims to prevent that from happening.

Filed Thursday by a resident of Washington, a Benton County tobacco retailer and the Ohio-based RYO Machine LLC, the lawsuit argues that the roll-your-own cigarette tax set to take effect in Washington is, in essence, a tax increase, and therefore should have been subject to the required two-thirds majority vote to pass as laid out by Tim Eyman's voter-approved Initiative 1053. The lawsuit seeks to prevent the roll-your-own cigarette tax from taking effect.

As is noted by a blog post by The News Tribune in Tacoma, "Roll-your-own machines let customers produce a carton of cigarettes for about half the cost of what they'd pay for those sold at retail stores."

Proponents of the new tax say it simply closes a loophole in the existing law. Of course, it's also estimated that the roll-your-own cigarette tax will bring in \$12 million this coming year, helping to fill the state's reported \$1 billion budget gap, making it all the more appealing to lawmakers.

In April, Tim Eyman told Seattle Weekly that the roll-your-own cigarette tax was passed in bad faith by the legislature and is a violation of I-1053. He said the tax, which he classifies as "new," will foster further challenges to the initiative.

State Senator Pam Roach has also expressed concern about the roll-your-own cigarette tax, penning an email to the state's Attorney General's office seeking an informal opinion on whether the roll-your-own cigarette tax included in Washington's new budget qualifies as a new tax. Much like Eyman's point of view, Roach's note to the state attorney general's office expresses concern that the roll-your-own cigarette tax is a violation of I-1053, and that the move will inspire future violations of the voter-approved initiative.

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http://blogs.seattleweekly.com/dailyweekly/2012/06/opponents_of_states_looming_ro.php

LAWSUIT FILED OVER ROLL-YOUR-OWN

By Alexis Krell
The Olympian (WA)
June 15, 2012

The roll-your-own tobacco industry said this morning that they are filing a lawsuit against a measure that would tax their product like retail cigarettes.

Roll-your-own machines let customers produce a carton of cigarettes for about half the cost of what they'd pay for those sold at retail stores. A law passed earlier this year would begin taxing these cigarettes like retail smokes, as of July 1.

The group filing the lawsuit argues that this "raises taxes," and therefore should have required a 2/3 vote to pass, due to Initiative 1053.

Supporters of taxing roll-your-own smokes as retail cigarettes say the law closes a loophole, and argue that the products are essentially the same.

The lawsuit was filed in Franklin County by a local resident and consumer, a Benton County tobacco retailer, and RYO Machine – the major supplier of the machines.

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ROLL YOUR OWN LAWSUIT

By David Haviland
KBKW News –Grays Harbor, Washington
June 15, 2012

Several Washington-based independent roll-your-own tobacco shops today announced the filing of a lawsuit against the State of Washington, the Washington Department of Revenue, and the Washington State Liquor Control Board to challenge HB 2565, which was implemented in the final budget signed by Governor Christine Gregoire in early May and seeks to impose unlawful new taxes on roll-your-own cigarettes.

Filed in Franklin County, the plaintiffs are Dana Henne, a consumer and Franklin County resident; 1/2 Price Smokes, Inc., an independent tobacco retailer in Benton County; and RYO Machine, LLC.

The plaintiffs are challenging the taxes purportedly implemented in HB 2565 on the grounds that the new taxes violate Initiative 1053, also known as the Eyman Initiative, which was passed in 2010 and requires a 2/3rds vote of the state legislature for any measure that "raises taxes."

The lawsuit contends that HB 2565 is not valid legislation. HB 2565 was rejected by the State Senate which refused to provide the 2/3rds majority vote to authorize the new taxes. Based on the definitions

outlined in the Eyman Initiative, the measure clearly “raises taxes,” and is corroborated by the Legislature’s fiscal notes for HB 2565, which project that the state would impose on Washington consumers and businesses more than 100 million dollars in new, additional taxes.

“Small business owners like me are struggling to survive in today’s uncertain economy. We have been disappointed in certain legislators and the Governor in their support of this bill. Because the Senate clearly voted down the bill, we are very troubled by the Governor’s attempt now to impose the new tax anyway in flat defiance of the will of the people and the Senate.” said Gary Alexander, owner of 1/2 Price Smokes. “The new taxes are a job killer. They clobber small business. We’ve said all along that regulations like this are not only unfair to independent retailers like me, but violate the law, and we are confident that the courts will agree.”

“HB 2565 raises taxes on consumers and on independent tobacco shops across Washington,” said Phil Accordino, CEO of RYO Machine. “Attorney General Rob McKenna himself conceded that this bill imposes new taxes on RYO cigarettes, and he is an unequivocal supporter of the Eyman Initiative. Voters across Washington overwhelmingly passed the Eyman Initiative. This is an illegal tax. It should concern everyone in Washington.”

In addition to this specific complaint, RYO retailers are also filing a motion for a preliminary injunction seeking to prevent enforcement of HB 2565, which is scheduled to begin on July 1, 2012.

There are currently 65 small, independent RYO tobacco stores that employ approximately 250 individuals across the State of Washington. The RYO Coalition of Washington supports the efforts of the plaintiffs in this case to promote small businesses and their employees in throughout the state.

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NEW STATE TAX THREATENS ROLL-YOUR-OWN TOBACCO SHOPS

By Diane Church

New Britain Herald (CT)

June 16, 2012

Last summer, opening a “roll-your-own” tobacco shop seemed like a good idea to Michael Hatzisavvis.

Burned out from long hours in the restaurant industry, he needed a new career. Roll-your-own establishments were new to the state. Since the tobacco used is not taxed as cigarette tobacco, but at the much lower pipe tobacco rate, the owner passes the savings on to customers by selling the cigarettes at half the going retail price that is impacted by the higher taxes.

The shop, called Big Cats Smoke Shop, opened last fall, and business has been steady. Hatzisavvis also recently opened a similar shop in Wallingford. But now his future is uncertain.

A law passed by the state Legislature last week requires the shops to pay the cigarette tax, obliterating the competitive prices. Gov. Dannel P. Malloy is expected to sign the bill, which also imposes a \$5,250 manufacturers’ fee on roll-your-own businesses each year.

“I’m going to fight it,” said Hatzisavvis, who, along with his business partners, has invested over \$115,000 on three cigarette-making machines, as well as inventory, furnishings and other items for the Bristol store alone. “I sell tobacco and tubes like a lot of the businesses in Connecticut. I have bills and commitments. Who’s going to pay my 10 employees?”

The whole issue of roll-your-own businesses has caused a political stir beyond the shops. A campaign aide for state House Speaker Christopher Donovan, who is the endorsed Democrat in the 5th District race for the U.S. House, was recently charged with trying to conceal the source of a \$20,000 campaign contribution to Donovan. That donation was reportedly from an investor in roll-your-own shops involved in a law enforcement agency sting operation. The bill did not make it to the floor during the General Assembly’s regular session. It is still not clear if there was a connection between the contribution and Donovan’s actions.

The bill was resurrected at this week’s special session where Donovan recused himself from the speaker’s post, but did vote with the majority to impose the manufacturing fee and increased taxes on such shops.

Donovan has denied any knowledge of improper donations.

Hatzisavvis is convinced that the publicity swirling around Donovan and the bill pushed lawmakers to raise the issue and pass it at the special session.

“Just because Donovan has a problem with a contribution,” he said. “Why do I have to go out of business over that?”

At roll-your-own shops like Big Cats, customers choose their tobacco blend and filter tubes, load them into the machines and press the button. The cigarettes fall out the chutes one at a time, while the customer sits there and loads them into a box. The price is about \$40 per carton, half of what the local stores charge, and it takes five to 10 minutes.

Thursday afternoon at 2 p.m., Big Cats Smoke Shop was busy. All three machines were occupied.

While waiting to use the machines, customers expressed concern that the new tax would affect those most in need of the discounted price.

“They’re going after the people who are the poorest,” said Greg Comstock as he loaded his cigarettes into a box. “Low-income people need this. They’re trying to put the little guys out of business. They always tax cigarettes. Tax something else.”

Brandon Chojnicki of Newington agreed. “People go where the cigarettes are the cheapest,” he said. “These are good guys. Small businesses are going to die again.”

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STOP THE SPREAD OF UNREGULATED ROLL-YOUR-OWN CIGARETTE OUTLETS

By New York Association of Convenience Stores

Read Media

June 15, 2012

Legislature Should Act Now to Hold RYO Shops to Same Standards as Other Retailers

There is still time – and a desperate need – for New York to join the growing list of states enacting legislation to regulate commercial roll-your-own cigarette machines, according to the New York Association of Convenience Stores.

"The Senate and Assembly must act now to stop the spread of unregulated RYO shops, before they do more damage to law-abiding retailers, New York taxpayers, and public health," said James Calvin, NYACS President.

RYO shops sell customers loose tobacco to feed into an on-premise roll-your-own machine that produces a carton of cigarettes in minutes. The customer pays tax only on the loose tobacco, which is taxed at a far lower rate than that for pre-packaged cigarettes. Because of the tax differential, the finished product costs less than half the price of pre-packaged cigarettes, enticing smokers. Consequently, RYO shops are reaping enormous profits, explaining why the number of New York stores with commercial roll-your-own machines has exploded from a handful to over 50 in just two years, and continues to rise.

In addition, RYO shops currently ignore fire safety manufacturing standards, tax-stamping requirements, Tobacco Master Settlement Agreement provisions, product display restrictions, health warning labels, minimum package sizes, and minimum pricing requirements that licensed convenience stores are required to comply with.

"For example, if a state inspector finds even one pack of cigarettes without a state tax stamp in a convenience store, under state law the owner is presumed guilty of tax evasion and subject to criminal arrest," Calvin pointed out. "None of the cigarettes produced at RYO shops bear tax stamps, yet those shopkeepers risk no penalty whatsoever."

Arkansas, Connecticut, Iowa, Idaho, Illinois, Michigan, Oklahoma, South Dakota, Tennessee, Vermont, Virginia, Washington, and Wyoming either have enacted, or are in the process of enacting, legislation requiring commercial roll-your-own shops to abide by the same rules as other tobacco retailers (access the list below).

In New York, legislation is being sponsored by Assemblyman Jeff Dinowitz (D-Bronx) and Senator Tom Libous (R-Binghamton) to do the same, but with only a week left in the 2012 legislative session, neither house has passed it. NYACS called upon the Legislature to make this bill a priority.

"This is not about trying to put anyone out of business," said Calvin. "Rather, it is about holding everyone in the cigarette retailing business to the same standards. It's only fair."

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SHUTTING DOWN SMALL BUSINESS – AGAIN

Opinion by Vin Suprynowicz

Las Vegas Review-Journal

June 17, 2012

Jeffrey Armstrong is a soft-spoken guy. He was schooled in Boston, though a slight lilt still betrays his Caribbean origin - Barbados, actually. The kind of guy who remembers his customers' names, he's the owner and sole proprietor of "The Smoke Zone," a rented storefront next to the Quiznos at 901 S. Rancho Drive just north of Charleston Boulevard - though it's one of several similar RYO (roll your own) Filling Stations in Southern Nevada.

The basic pitch? Cheap cigarettes.

The brunette pays about \$26 per carton at the Paiute tribal smoke shop, on the reservation north of town, for Smokin' Joes, which are relatively loosely packed and thus fast-burning. Quality control? A little spotty.

Armstrong advertises cartons at \$21 plus sales tax, packed by a machine in his shop that's adjustable for degree of firmness, allowing you to create a cigarette that will burn longer than a Smokin' Joe, "so you actually smoke less, which saves you even more money."

I called the Wal-Mart Supercenter on West Charleston. A carton of Marlboro "100s" now costs \$49.70, there.

I don't smoke. Armstrong said the regulations governing tobacco distribution are such that he was reluctant to hand the brunette a free sample, but a customer who was in the process of "rolling her own" carton cheerfully handed one over. The brunette found it a bit harder to draw than her usual brand, leading to the discussion of the ability to adjust the air pressure with which the machine packs the tobacco, as well as the higher relative humidity of the pipe tobacco being used.

Ah, yes, the machine. It dominates the waiting area of the small shop, a red steel box a bit smaller than an upright piano.

Armstrong insists he neither manufactures nor sells cigarettes - a legal fine point the importance of which will soon become obvious.

"I sell you the tobacco," he says, holding up a big Ziploc plastic bag that holds 8 to 9 ounces of the brown shag. "And I sell you the empty tubes," he says, taking down from the shelf and displaying a carton of filter cigarettes that turn out to be, well, empty.

The buyer then dumps the tobacco in the chute at the top of the machine, positions the box full of empty paper tubes in a slot in the side, punches the video control screen a few times, and - voici - the machine goes to work chopping the pipe tobacco, spitting it into the little paper tubes one at a time via compressed air, and dropping them into a tray down below, where the purchaser gathers up the finished cigarettes and packs them neatly back into the cardboard carton. Processing a carton's worth appears to take about 10 minutes.

"I never touch the tobacco or the cigarettes," Armstrong says, smiling. For a small fee to use his machine - included in the per-carton price - you've just rolled your own.

Why are they so much cheaper? The rough-cut pipe tobacco is taxed at a lower rate. But the federal government does impose a hefty tax on cigarette manufacturers, which is not paid by those who roll their own. The entrepreneurs responsible for the RYO Filling Stations discovered a niche in the law and introduced their perfectly legal, cost-saving service.

Needless to say, Big Tobacco was not pleased.

"Now lawmakers, backed by Big Tobacco and convenience-store chains, want to declare such shops to be manufacturers," reported Mike Esterl in The Wall Street Journal on March 16. "That would subject them to the same taxes and regulations as the broader cigarette industry, likely snuffing them out. ... Hundreds of such shops - mostly or entirely focused on the roll-your-own machines - have opened since 2009, when Congress increased" tobacco taxes.

Big Tobacco doesn't employ all those lobbyists so they can just sit back and let something like the RYO revolt transpire. Under a Senate bill passed a few days before Esterl's piece ran in the Journal, "Any retailers making roll-your-own machines available to customers would be treated like mainstream cigarette manufacturers."

Rep. Diane Black, R-Tenn., introduced a separate bill, House Resolution 4134, amending the definition of a tobacco manufacturer to include "any person who for commercial purposes makes available for consumer use a machine capable of producing tobacco products."

Would that include the little palm-sized gadgets I used to watch kids employ to roll their own cigarettes, of various kinds, back in my college days?

If I rent out construction gear, am I suddenly a construction contractor?

RYO Machines LLC of Ohio, the largest maker of the machines, has hired its own lobbyists and lawyers. "The company and affected tobacco shops say they have no way of complying with the regulatory requirements of being a cigarette manufacturer," The Journal reports.

"I'm David fighting Goliath," said Phil Accordino, part-owner of Girard, Ohio-based RYO Machines, which began manufacturing the nearly 5-foot-high contraptions in 2008. The company has sold about 1,900 machines to tobacco shops in more than 40 states, including roughly 1,000 last year. Stores pay a bit more than \$30,000 for each machine, which takes two to three seconds to roll a cigarette - roughly a thousand times slower than machines at big cigarette manufacturing plants.

The Alcohol and Tobacco Tax and Trade Bureau declared in 2010 that retailers with roll-your-own machines are manufacturers, but RYO secured a preliminary injunction in a federal court in Ohio. RYO also has won injunctions in a handful of states, including Connecticut and Wisconsin.

The likelihood they'll win in the end? Come on.

Big Business and Big Government working hand in hand to stymie the creative destruction of true capitalism, ain't capitalism. Instead, it's a corrupt, protectionist economic system that the dictionaries recognize as fascism or state socialism.

Our politicians say they're desperately searching for ways to create jobs. The RYO entrepreneurs came up with \$30,000 apiece to buy these rolling machines, then probably invested twice that much again in rent, advertising, business licenses, sign permits, everything else our hostile modern regulatory state now requires of a start-up business - all on the presumption they could rely on the law remaining the same.

Yet the minute Mr. Tobacco Lobbyist rang Your Favorite Congresscritter, it was "Change the law to destroy a specific legal business, shut down a thousand-odd small businessmen and women, crush their dreams and throw them back on the street? Yes sir, yes sir, three bags full!"

Vin Suprynowicz is assistant editorial page editor of the daily Las Vegas Review-Journal and author of the novel "The Black Arrow" and "Send in the Waco Killers."

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CALIFORNIA'S CIGARETTE TAX INITIATIVE PICKING UP VOTES IN LATE TALLY

By Phil Willon
Los Angeles Times
June 16, 2012

Proposition 29, the \$1-per-pack tax on cigarettes in California, is narrowing the gap with the 'no' vote as mail-in ballots are counted

Down by 63,000 votes, the statewide ballot initiative for a \$1-per-pack tax on cigarettes was pretty much given up for dead the night of the June 5 primary election.

Then, election workers across California began tallying stacks of uncounted ballots — more than a million of them, mostly sent by mail a day or two before the election or handed in at polling places.

The gap in the vote on the tobacco tax, Proposition 29, began to narrow. And narrow. By Friday night, the margin of defeat had shrunk to 16,778 votes — or four-tenths of 1%.

"I think we're still definitely in it," said Jim Knox of the California Division of the American Cancer Society, one of the major supporters of the Yes on 29 campaign. "Either way, it appears this is going to be the closest ballot measure outcome in modern history — if not ever."

Knox remains cautious for good reason. The measure was trailing by 29,000 a week ago, by 42,000 on Thursday and then dropped to its smallest gap yet on Friday.

The odds of the Yes on 29 campaign pulling off a victory remain long: About 52% of the remaining 436,000 uncounted ballots would have to favor the measure, which would fund cancer research and anti-smoking campaigns. The proposition reached or exceeded that level of support in only 16 of California's 58 counties.

"It's not very probable, not unless it gets the vast majority of outstanding ballots in counties where it's doing very well," said Stephen Weir, Contra Costa County's registrar of voters.

As the uncounted ballots were being tallied, some of the biggest gains were coming from large counties where the tobacco tax support received the strongest support, including Alameda, Contra Costa and Santa Clara. The measure also picked up ground in San Diego County, where it still trails by 1%. The measure made a minute gain — 0.2% — in voter-rich Los Angeles County, where it still is losing by 1.2%, election figures show.

A spokeswoman for the No on 29 campaign, bankrolled by the tobacco industry, said the campaign was happy to still be in "such a good position."

"Coming out of election night with a 60,000-plus vote lead, we have always felt in a good position to hold on and be successful when all the votes are counted," said Beth Miller. "We're not seeing anything at this point to lead us to believe anything different."

The ballot count could continue to fluctuate until July 6, the deadline for county election officials to submit certified results. Once the official results are announced, any voter has the right to ask for a recount, although requests must be made county by county and paid for by the person making the request.

Proposition 29 would add a \$1-per-pack tax on cigarettes to raise an estimated \$860 million a year for research on tobacco-related diseases and for prevention programs. The American Cancer Society and cycling champ Lance Armstrong, a cancer survivor, were among the measure's biggest proponents, raising more than \$11 million to support the ballot initiative.

Tobacco giants Philip Morris USA and R.J. Reynolds Tobacco Co. poured nearly \$47 million into the "no" campaign and were joined by anti-tax and business groups.

Vacillating counts are common in the weeks after election day, as uncounted ballots are processed and sporadically updated by counties. Some local registrars wait until all ballots are tallied to report their vote updates; others do it as they go. The statewide margin of difference on Proposition 29 is less than 1 percentage point.

"Having been through this experience before, I would always caution against making a bold prediction of victory or defeat until it becomes mathematically impossible for any other outcome," said Democratic political consultant Brian Brokaw.

Brokaw worked as a consultant for Democratic state Atty. Gen. Kamala D. Harris' campaign in 2010, when Harris beat Republican Steve Cooley, the Los Angeles County district attorney, by less than 1 percentage point. Her margin amounted to 74,157 votes.

Cooley, in fact, declared victory on election night. Hours after he strode onto a stage at the Beverly Hilton Hotel to deliver the news, Cooley was trailing. Over the next three weeks, as 2.3 million more ballots were tallied, the lead switched back and forth until Harris finally pulled ahead for good.

"The vote would swing by the hundreds, sometimes by the thousands," Brokaw said. "We were careful about never getting our hopes up too high."

Regardless of the outcome, the fact that the tobacco tax initiative made up significant ground after election day has caught the attention of campaigners and election experts.

Figuring out what sways mail-in voters has become crucial: Nearly half of the voting electorate turns in ballots by mail. Some theorize they may be younger, or busy parents with little free time, and their votes trend liberal. Others believe they may have been swayed by Yes on 29 campaign ads, which aired late in election season.

"There's a lot that goes on in campaigns at the end. There are probably more people who are waiting until then," said Secretary of State Debra Bowen, California's chief election official.

Bowen dismissed the conventional wisdom that conservatives tend to mail ballots early and liberals late. What is apparent, she said, is that the most partisan Republicans and Democrats tend to mail their ballots early because they make up their minds early.

Late ballots tend to mirror the results from traditional polling places, she said.

As for the apparent late surge for Proposition 29, Bowen didn't offer any opinions. Too many factors were in play, she said: a new "top-two" primary system, redistricting and millions spent on independent expenditure campaigns.

"Was it the pizza or the beer that caused you to gain 15 pounds during your first year of college?" she joked.

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LIGHT UP YOUR PORTFOLIO WITH THIS TOBACCO STOCK

By Guillaume Desjardins

CNBC

June 18, 2012

Imperial Tobacco, one of the world's leading tobacco companies, offers significant growth prospects as well as being one of the most defensive areas in consumer staples, Olivier de La Ferrière, fund manager at KBL Richelieu Gestion, told CNBC.com.

The valuation of Imperial Tobacco [IMT-GB 2386.00 8.00 (+0.34%)], the owner of brands such as Gauloises, Drum or Davidoff, is trading at discounted levels due to its lack of exposure to emerging markets, de La Ferrière explained.

While 51 percent of competitor British American Tobacco's (BAT) [BTI 97.93 --- UNCH (0)] net profit comes from emerging markets and 44 percent for peer Philip Morris [PM 87.73 (---)], emerging markets contributed just 23 percent to Imperial Tobacco's profit in 2011.

"This is what justifies the valuation discount, but it is simplistic, because (Imperial Tobacco) is the leader in the Roll-Your-Own (RYO) segment, which is interesting due to its strong growth and higher margins than the rest of the sector," de La Ferrière said.

The company is a strong cash flow generator which offers a potential increase in shareholder return.

The free cash flow payout ratio—the annual dividend per share divided by free cash flow per share—is currently at 75 percent, but could eventually reach 100 percent, de La Ferrière explained, thanks to solid dividends and an increase in its buyback program.

"A positioning makes sense," de La Ferrière said, as the stock currently trades below 2400 British pence and could, in the medium term, go up 20 percent and reach a price target of 2900 pence.

In the long term, the company could even be an acquisition target, de La Ferrière said, mentioning Imperial Tobacco's competitors Japan Tobacco [JAPAF 5585.00 --- UNCH (0)] and BAT as potential suitors. However, such a move could cause antitrust concerns in Europe, he said.

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