

## DAILY NEWS CLIPS

### FEDERAL NEWS CLIPS

April 30, 2012

#### **REPORT CITES MAJOR SHIFT IN SMOKING HABITS**

By Brian Tumulty

WGRZ News (NBC) –Washington

April 27, 2012

A new government report says Americans' smoking habits have displayed "sizable market shifts" since federal tobacco taxes were increased in 2009.

Sales of pipe tobacco and large cigars, which are taxed at a lower rate, have skyrocketed as smokers have adjusted their buying habits to the new price structure.

Monthly sales of pipe tobacco increased 12-fold, from about 240,000 pounds in January 2009 to over 3 million pounds in September 2011, the GAO found. And monthly sales of large cigars more than doubled, from 411 million pounds to more than 1 billion pounds over the same period.

Pipe tobacco is increasingly used to make relatively inexpensive cartons of roll-your-own cigarettes in machines installed in neighborhood smoke shops around the nation.

In New York, where state tobacco taxes are among the highest in the nation, the machines are in smoke shops in Depew and Lewiston in the Buffalo area; at several locations in Rochester; in New Rochelle, Nanuet and Newburgh in the Hudson Valley; in Brooklyn and Staten Island in New York City; and in Ithaca in the Southern Tier.

Congress increased taxes on both roll-your-own tobacco and packs of cigarettes in April 2009, making them equal. Lawmakers enacted a smaller tax increase for pipe tobacco, which has become a substitute for roll-your-own tobacco.

Likewise, Congress began taxing small cigars at the same rate as cigarettes. In response, manufacturers of small cigars fractionally increased the weight of many of their products so they would qualify as lower-taxed large cigars, even though they often are just slightly larger than cigarettes and often have filters.

Premium handmade large cigars retail for \$3 to \$20 each, but "smaller factory-made cigars that meet the legal definition of a large cigar can cost as little as 7 cents per cigar," the GAO reported.

The market shift has cost the federal government an estimated \$615 million to \$1.1 billion in uncollected tax revenue between April 2009 and September 2011, the report said. It did not estimate how much individual states may have lost in uncollected taxes.

"That's real money and a tax avoidance scheme Congress ought to be interested in stopping," Gregg Haifley, associate director of federal relations at the American Cancer Society Cancer Action Network, said of the GAO report. "It's also counterproductive for the public health benefit of tobacco taxes."

Liggett CEO Ron Bernstein, whose company sells discount cigarettes that are taxed at the higher rate, said his company estimates the tax loopholes have cost the government even more. About 2.7 million people purchased roll-your-own cigarettes last year, and that could grow to 3 million in 2012, he said, citing data from the Treasury Department and the Centers for Diseases Control and Prevention.

In a written response to the GAO report, Treasury officials noted that the numbers in the report "are not actual losses of revenues, but rather your estimates of the revenue increases if Congress were to change the law to eliminate the disparities."

And that's the GAO's recommendation: Congress should fix the disparities.

According to the GAO report, a woman representing one tobacco company said she knew of no difference between the roll-your-own tobacco her firm formerly produced and the pipe tobacco it switched to making - other than the federal excise tax.

Sen. Tom Harkin, D-Iowa, has 15 cosponsors for legislation to eliminate the tax disparities, but the bill is stuck in the Senate Finance Committee.

In contrast, 176 House lawmakers and seven senators are co-sponsoring the Traditional Cigar Manufacturing and Small Business Jobs Preservation Act, which would exempt large and premium cigars from regulation by the Food and Drug Administration.

The Family Smoking Prevention and Tobacco Control Act of 2009 gave the FDA immediate authority to regulate most tobacco products but required the agency to go through a rule-making process to regulate cigars and pipe tobacco.

New York co-sponsors of the House bill include Republican Reps. Tom Reed of Corning, Richard Hanna of Oneida County, Ann Marie Buerkle of Onondaga, Chris Gibson of Kinderhook and Michael Grimm of Staten Island as well as Democratic Reps. Bill Owens of Plattsburgh, Steve Israel of Dix Hills, Tim Bishop of Southampton, Charlie Rangel of Manhattan and Edolphus Towns of Brooklyn.

The lead sponsor of the House bill, Republican Rep. Bill Posey of Florida, views the issue as one of personal freedom for "aficionados who enjoy smoking a premium product," said spokesman George Cecala. "It will be unprofitable to have a cigar shop. It's a niche thing that adults do. It's not something that children do."

Currently, cigars are defined as large if 1,000 of them weigh at least three pounds. That would be doubled to six pounds under the House bill. Large and premium cigar wrappers would have to be entirely composed of tobacco, instead of just having some tobacco content.

And the large premium cigars would not have filters.

The bill, however, doesn't have a tax component in its current form. It would not change the tax code's definition of a large cigar.

Anti-smoking advocates say the tax loopholes are secondary to the more important and positive health news about decreasing tobacco use among Americans as a result of the April 2009 tax increase, when the federal excise tax on a pack of cigarettes rose to \$1.06.

The percentage of American adults who smoke decreased from 20.6 percent in 2009 to 19.3 percent in 2010, according to the Centers for Disease Control and Prevention.

"When you look at the federal tax increase, it's a public health win because tobacco consumption declined and it's a budget win because revenue increased," said Danny McGoldrick, vice president of research at the Campaign for Tobacco-Free Kids. "And we would add it's a political win because tobacco taxes are one of the few taxes large majorities of the public in both parties support. It would be a bigger public health win and a bigger revenue win if we could fix these loopholes that the tobacco companies are driving their trucks through."

Cigarette sales dropped about 11 percent - from 17.3 billion packs in the 12 months prior to the tax increase to 15.4 billion packs in the 12 months after the higher rates took effect, according to an analysis of tax data by the Campaign for Tobacco-Free Kids.

Phone calls to a toll-free quit-smoking line rose 49 percent in the 12-month period that began in February 2009, two months prior to the tax increase, compared to the same period a year earlier.

At the same time, revenue from the tax increase has been used to expand a federal program that provides health insurance to low-income children. Tobacco tax revenue rose 129 percent to \$15.5 billion in the first 12 months the higher tax rates took effect, according to the Campaign for Tobacco-Free Kids' analysis.

Originally published here : <http://www.wgrz.com/news/article/167106/37/Report-Cites-Major-Shift-in-Smoking-Habits>

## **SMOKERS ABLE TO DODGE TAX CHANGES**

By Kyle Nagel  
Dayton Daily News (OH)  
April 28, 2012

*Critics want taxes raised on pipe tobacco used in roll-your-own machines.*

Tax changes have boosted national pipe tobacco sales by 840 percent in the past three years, leading to calls for equalizing federal taxes for all tobacco products and creating a robust market for do-it-yourself cigarette-rolling machines.

The April 2009 tax changes caused more smokers to buy pipe tobacco for rolling cigarettes, which they call “sticks.” At the same time, the demand for now-heavily taxed “roll-your-own” tobacco plummeted.

To make those cigarettes, more smokers are using a machine developed and produced in the Youngstown area. A user inserts tobacco and cigarette tubes into the “RYO Filling Station” to avoid buying packaged cigarettes.

Tobacco taxes affect Ohio’s estimated 1.7 million smokers. In 2010, the Centers for Disease Control and Prevention ranked Ohio 35th nationally with an adult smoking rate of 20.1 percent.

The state’s 12.9 percent youth (ages 12-17) smoking rate is 46th in the U.S.

The Government Accountability Office, which recently released a report on the 2009 tax changes, suggests that the country follow Ohio’s method of equalizing taxes. In Ohio, all noncigarette tobacco products are taxed at 17 percent of the wholesale price, although the American Lung Association in Ohio has been asking lawmakers to significantly increase that rate.

The GAO said it would like to see RYO and pipe tobacco taxed at the same rate. Currently, RYO tobacco is federally taxed at \$24.78 per pound, compared with pipe tobacco’s \$2.83 per pound.

Meanwhile, critics of the RYO machine are asking for the machine-rolled cigarettes to be taxed for production, which would end their economic advantage. The machines have been controversial enough in the smoking world that multiple local shop owners who offer them declined to comment.

The change in buying patterns doesn’t have as strong of an effect on Ohio because of its flat tax rate on all non-cigarette tobacco products. However, local tobacco outlet operators said they have seen more customers drive to Pennsylvania and buy tobacco products in bulk because it is the only state that doesn’t tax snuff, chewing and smoking tobacco or large cigars.

It’s easy for tobacco companies to help customers avoid some taxes, tobacco enthusiasts said. According to the Alcohol and Tobacco Tax and Trade Bureau, little more is necessary than changes in packaging and labeling to change RYO tobacco to the lesser-taxed pipe tobacco.

“In pipe tobacco, you’re generally enjoying the aroma and some flavor,” said Jason Clyburn, manager at The Wharf tobacco shop in Beavercreek. “The roll-your-own, they have their own pipe cut, and basically it’s regular cigarette tobacco with a bigger, heavier, leafy cut, the way a traditional pipe tobacco has. That’s how they’re skating around the (RYO taxes).”

### *Using pipe tobacco*

In March 2009, the month before the Children’s Health Insurance Program Reauthorization Act of 2009 tax increases went into effect, both RYO and pipe tobacco were taxed at \$1.0969 per pound. After the changes, RYO taxes increased almost 2,200 percent, while pipe tobacco taxes increased just 158 percent.

The price change started a dramatic shift in the tobacco that smokers use to make their own cigarettes. RYO tobacco once outpaced pipe tobacco 3.3 to 1; but in February buyers purchased nearly nine times more pipe tobacco than RYO tobacco, about 3.4 million pounds of it.

The changes in buying habits have led some, including the GAO, to call for equalizing federal taxes on pipe and RYO tobacco. The American Lung Association in Ohio has also asked state legislators to increase the state taxes on noncigarette tobacco products to 55 percent of the wholesale price (from the current 17 percent), which it says would match the cigarette taxing level.

“Basically, from a public health perspective, it’s bad because instead of stopping using tobacco or smoking, people are just switching to a cheaper product,” said Shelly Kiser, director of advocacy for the American Lung Association of the Midland States.

### *Using the Machines*

Around the time the new tax laws took effect, a company in Girard, Ohio, called RYO Machines began distributing devices meant to help customers quickly roll their own cigarettes. In literature, the company said the machines, called RYO Filling Stations, can “roll 200 smokes in your store in 8 minutes.”

Instead of buying a carton of 200 cigarettes for about \$45 to \$75, customers can buy tobacco and cigarette tubes separately then rent the RYO Filling Stations for about \$10 and make about 200 “sticks” for a total cost of about \$24.

Mike Joo, who owns four Smoke Stop locations in the Dayton area, including stores in Miamisburg and Franklin that offer the machine, said most of his stores’ customers who use the machines were making their own cigarettes anyway. They’ve just found a way to do it faster and cheaper, he said.

“Times are tough right now,” Joo said. “In my personal opinion, the silliest thing they could do is raise taxes on something when the economy is like it is.”

*Originally published here:* <http://www.daytondailynews.com/news/dayton-news/smokers-able-to-dodge-tax-changes-1367232.html>

## **BARBARA BOXER DETERMINED TO SEE HIGHWAY BILL PASSED DESPITE HURDLES**

By Paul C. Barton  
Palm Springs Desert Sun (CA)  
April 30, 2012

Sen. Barbara Boxer found out the hard way: Highway legislation no longer presents the slam dunk it once did.

But now there is a glimmer of hope Congress might actually pass a multiyear federal highway bill this year, instead of relying on short-term extensions of the last bill, which passed in 2005 and expired in 2009.

After many fits and starts, the issue is finally headed to a House-Senate conference committee to work out a compromise bill as road needs in California and across the nation wait to be met.

For Boxer, a Rancho Mirage Democrat, highway programs fall squarely within her wheelhouse as chairman of the Senate Environment and Public Works Committee.

It used to be that Congress liked few things better than to pass a highway bill, replete with all the news releases they generated about projects back home.

But for Boxer, the two-year process has at several times resembled pulling teeth, due to the atmospherics of the 112th Congress — partisan infighting, the shadow of \$1 trillion annual deficits and a \$15 trillion national debt, as well as volatility in oil prices that ensured any new gas-tax revenues were off the table.

To get her bill through the Senate, which she did with an overwhelmingly bipartisan 74-22 vote on March 14, she had to deal with hundreds of side issues, even insurance coverage for birth control.

“You ask yourself sometimes, ‘What do you have to do?’ ” Boxer said in an interview.

“It’s frustrating for me, especially when I know how tough the economy is for construction workers.”

Her bill contains about \$3.8 billion a year in federal funding for California.

According to estimates by her committee staff, it would fund 132,000 highway and 45,000 mass transit jobs in California and as many as 3 million jobs nationwide.

The four-term senator’s ability to craft a highway bill with Sen. James Inhofe, R-Okla. — her polar opposite on most issues and the ranking GOP member of her committee — has earned her praise from many quarters.

“She’s been a very effective advocate,” said Ken Orski, a former Transportation Department official who now writes Washington newsletters on the topic.

One of the problems lawmakers face in crafting a highway bill these days, he said, is that rank-and-file members are no longer inspired to automatically support highway bills because they no longer contain earmarks — funding targeted for special projects in local areas.

“With earmarks out of the equation, they don’t have an incentive to vote for it,” Orski said.  
Bill still has a few major obstacles

While the highway bill is finally going to conference, Senate and House members retain sharply different visions of what they want in a final version, especially when it comes to funding.

Boxer's bill calls for retaining current gas tax revenues plus finding \$12 billion in "offsets," or funding stripped from other areas of federal spending. The two-year cost of the bill is \$109 billion.

The House is suspicious of the offsets approach — Republicans consider many of them to be "accounting gimmicks" — and wants to bring revenues from oil-drilling licenses into the equation, including from exploration in the Arctic National Wildlife Refuge. The House also wants approval of the Keystone XL pipeline included.

Meanwhile, study after study shows the United States and California facing astronomical transportation needs over the next decade, with lawmakers at a crossroads in trying to finance that work.

Allowing drilling in ANWR is a nonstarter for Boxer, but she said she is willing to look at revenues from oil royalties as one of several possibilities for funding expanded infrastructure work in the future.

Another widely discussed possibility is to tax motorists based on how many miles they travel, although some see too much government monitoring of private lives in its implementation.

Regardless, the National Surface Transportation Infrastructure Financing Commission said in a 2009 study that more than half the miles Americans travel on roads in the federal highway-aid system are in less than "good" condition. It adds that the country is paying an increasing price economically for deferred maintenance and improvements.

All levels of government combined, it said, spend only about a third of the \$200 billion a year the nation should be spending on surface transportation to keep the economy competitive.

Transportation funding in California alone faces a shortfall of \$290 billion over the next decade, according to estimates of state highway officials and advocacy groups such as Transportation California.

"We would like to have a longer-term bill," said Jack Basso, who monitors federal funding for the American Association of State Highway and Transportation Officials.

But for the moment, he added, state highway officials would love something like the Boxer bill. The current pattern of limping from extension to extension crimps their ability to commit to major projects.

Every \$1 billion in federal funding will create about 28,000 jobs, he said, both direct construction work as well as jobs at firms that provide the equipment and materials.

But Orski cautions that just because the bill has reached conference doesn't mean the political environment will allow it to be completed this year.

He said the "chief uncertainty and stumbling block" is the Keystone Pipeline provision and whether Senate Democrats — and the White House — will accept it or whether House Republicans will accept a Senate bill without it.

"The outcome," Orski said, "is still murky."

Originally published here:

<http://www.mydesert.com/article/20120430/NEWS0804/204300310/Barbara-Boxer-highway-bill-determined-despite-hurdles?odyssey=tab|topnews|text|Frontpage>

## **BLACK WRITES OFF \$1M CAMPAIGN LOAN**

By Alexander Quinones

The Tennessean

April 29, 2012

A spokeswoman for U.S. Rep. Diane Black's re-election campaign said Thursday that Black won't be repaying herself nearly \$1 million of the money she loaned her campaign for the 2010 election.

Campaign finance spokeswoman Jennifer Coxe confirmed Black has written off the loans as matched donations to her campaign.

"Congressman Black was able to raise over a million dollars from people who supported her conservative values because they knew she would fight to reign in out of control spending in Washington, D.C.," Coxe said. "Diane is so deeply committed to the conservative cause that she put her money where her mouth was and matched her contributors' donations."

Black is seeking re-election in Tennessee's 6th District. According to FEC data, Black loaned \$1,200,100 to her 2010 election campaign. The money came from five bank loans she got from Farmers Bank, Coxe said. The loans range from \$100,000 and \$550,000 and are dated between Dec. 29, 2009, and Nov. 1, 2010, which was the day before the 2010 election day. Her campaign repaid her \$208,300, but Coxe said Black will consider the remaining balance of \$991,800 a donation to her campaign.

According to FEC filings, Black finished repaying the loans to the bank in November 2011.

According to Black's latest FEC filings, which include data through March 31, Black has a net of \$718,990 in the coffers that she could use to repay herself. Federal regulations usually prohibit candidates, 20 days after an election, from repaying personal loans over \$250,000 they made to their own campaigns. However, because Black got the money for the loans from bank loans, albeit personal bank loans, she is not bound by that restriction, according to FEC laws.

Craig Holman, a campaign finance reform expert with the non-partisan government watchdog group Public Citizen, said the original intention of the restriction is to force wealthy candidates to disclose if, and how, they are self-financing a campaign and control their repayments.

"The limit on repayment is designed to force the candidate to declare that he or she is self-financing and to avoid raising private funds ad infinitum that go directly into the candidate's pocket; this is viewed as potentially corrupting," he said. "Bank loans, on the other hand, are given in a business relationship, in which the bank determines the feasibility of repayment and provides only that amount, charges market interest, and the repayment goes to the bank, not the candidate."



According to FEC data, 28 percent of all the 2,888 House candidates in the 2010 election loaned themselves money. Of the list, Black was No. 13 in most amount loaned. The top personal financier was Tom Ganley, who ran for office in Ohio's 13th Congressional District and loaned his campaign \$7.9 million. He lost the election.

Zelenik, Black will face off

Black, a Gallatin resident, will be facing off against Lou Ann Zelenik again this election year after a bitter battle in 2010 for the GOP nomination.

Coxe stressed Black raised more money in 2010 than her Republican primary opponent Zelenik from external donations.

Black raised \$1,001,770.75 in the last election, while Zelenik raised \$164,241.80 for the Republican primary, according to filings.

"Diane had a lot more financial support from voters than Lou Ann did last time," she said. "Now Diane starts the race with over \$700,000 in the bank that she has raised from contributors; not a penny has been loaned to the campaign for this election. Lou Ann starts out with zero dollars."

By comparison, Zelenik raised \$164,241 and loaned her campaign \$411,338 out of her own pocket. When she submitted her final 2010 election report in April 2011, she disclosed that her campaign had repaid her \$149,985. She said she would write off the remaining balance of \$211,352.85.

"I am using the cash remaining in my campaign account to repay my loan to the campaign," she wrote in a disclosure letter to the FEC. "Any remaining debt owed to me, I am forgiving and writing off."

In the first three months of this year, Black has raised \$257,748. Her latest FEC filing shows Black donated \$50,000 to the National Republican Congressional Committee in November. Zelenik's latest FEC filing does not yet show any donations to her campaign for this election, other than a personal loan of \$4,210.

The primary election will be Aug. 2, 2012.

*Originally published here:*

<http://www.tennessean.com/article/20120427/HENDERSONVILLE01/304270098/Black-writes-off-1M-campaign-loan?odyssey=mod|newswell|text||s>