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### **BILL COULD END 'ROLL-YOUR-OWN'**

By Brian Matthews

Waterford Public Opinion (South Dakota)

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Smokers who stop by the Backdoor Smokes shop behind 212 Casino on Highway 212 to roll their own cigarettes may soon be surprised to find their favorite rolling machine gone, thanks to a bill in the Legislature.

House Bill 1138 would characterize stores like Backdoor Smokes that provide roll-your-own (RYO) cigarette machines as cigarette manufacturers and therefore subject to a higher tax rate - or elimination.

"They are trying to remove any and all rolling machines at tobacco establishments," Backdoor Smokes owner Todd Florey said. "The people behind all of this (are) big tobacco and also the convenience stores that are afraid that they are losing head count."

Florey invested in two RYO machines from a company based in Ohio after a customer suggested the idea. Customers purchase their tobacco, loose leaf rolling tubes and pay a machine rental fee, all for about half the cost of buying a normal carton of cigarettes.

"I have been coming since the machines got here," customer Pauline Marko said. "I think the machines are great because I save money and the cigarettes are just better."

South Dakota has 13 retailers with RYO machines and the state feels it is losing revenue because the cigarettes are not taxed the same. Customers are paying a tax of 35 percent for loose tobacco and 4 percent sales tax on materials purchased. According to the Tax Foundation website, a regular pack of cigarettes has a tax of \$1.53 per pack of 20.

Florey said he has seen an increase in customers since he got the machine because they save money and also because some customers were previously crossing the border to buy their own rolling materials.

In addition to saving money, Florey said customers have said they smoke less because the cigarettes last longer, saving them more money.

Florey said he sent a letter to his legislators and even invited them to his store to see how the machines work. The smoking ban in bars and restaurants, Florey said, is costing him \$50,000 in annual revenue and this bill could eliminate an aspect of his business that benefits him and his customers.

"The people who get hurt by this are the customers," Florey said. "People who are rolling their own cigarettes do so to save money either so they can spend their money elsewhere or because they really need to save a buck. Smokers have rights, too."

Florey, along with other smoke shop owners from around the state, will be in Pierre on Wednesday when the bill is discussed by the Legislature.

## **LEGAL THREATS CAUSE ROLL-YOUR-OWN CIG STORE TO CLOSE, SECOND SHEEPSHEAD BAY SHOP NOW IN CITY'S SIGHTS**

By Ned Berke

Sheepshead Bites News Blog (New York City)

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After less than three months, City Smokes (2695 Coney Island Avenue) has closed for good, following a lawsuit filed yesterday by New York City that the roll your own cigarette business was skirting tax laws. A similar store in Sheepshead Bay has told Sheepshead Bites that he, too, is being threatened by the city.

Lawyers for New York City filed suit against the operators of City Smokes, and a second roll your own cigarette shop in Staten Island yesterday, threatening to collect back taxes for the tobacco sold on premises.

City Smokes is one of several new shops cropping up around the five boroughs that allow patrons to buy loose tobacco, paper and filters, and then use in-store machines to roll them. Since they claim they're only selling loose tobacco, the industry exists in a legal grey zone, since loose tobacco is taxed at a lower rate. A standard pack at such a location could cost as little as \$2.95.

The city, however, doesn't think it's so grey. If customers are leaving the store with rolled cigarettes, they argue, then they're purchasing rolled cigarettes, and patrons should be taxed at the full rate.

“These legal actions are part of our ongoing efforts against businesses that think they can invent loopholes to skirt New York City’s tough cigarette laws,” Corporation Counsel Michael Cardozo told Daily News.

The city also claims that these shops “cause a public nuisance” by selling cigarettes that have not been certified as “fire-safe” as required by New York State law.

The city previously forced two similar shops – one in Manhattan, the other in Staten Island – to close down in December after threatening to take them to court for back taxes.

A second Sheepshead Bay roll your own cigarette shop is also facing pressure from Bloomberg administration lawyers to close down. The operator of Green Leaf Smokes at 1326 Sheepshead Bay Road told Sheepshead Bites he received a cease and desist letter informing him the city will commence legal action against them in the event of non-compliance.

He declined to be quoted on the matter, but noted that he received the letter two weeks ago and has given it to his lawyer to determine an appropriate response.