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STATE BILL TARGETS SMOKE SHOPS

By Sally York
Argus-Press (MI)
February 19, 2012

Rob Bitz, owner of Rollin' Smokes at 201 W. Main St., says if state lawmakers pass a proposed bill that requires roll-your-own shops to pay the same taxes as the big tobacco companies, he could go bankrupt.

"It would hurt me very bad," said Bitz, who also owns Rollin' Smokes in Flint Township and That's How We Roll in Lansing. "I could lose everything if this bill goes through."

Bitz's shops — and 28 others like it across the state — have \$32,500 machines that roll 200 cigarettes in eight minutes, cutting the cost of a carton's worth to \$30, about half the price of those sold elsewhere.

Roll-your-own cigarettes are cheaper because customers operate the machines. Thus, the shops currently are not considered "manufacturers" under the law and don't have to pay the \$2 state tax and \$1.01 federal tax levied on a pack of manufactured cigarettes.

The bill pending before the state Senate, SB 930, would make roll-your-own shops "manufacturers" that are "subject to the licensing requirements and regulations that apply to other cigarette manufacturers," according to a published floor summary. "This is expected to reduce the sale of untaxed cigarettes and increase cigarette tax revenue by an unknown amount."

The Senate could vote on the bill, which was introduced last week, as early as Wednesday.

Bitz said 80 percent of his business comes from roll-your-own customers. He has already collected more than 3,000 petition signatures objecting to the law. Jason Hoffman, 35, a Rollin' Smokes customer since the shop opened last year, signed the petition.

“I wish I could quit, but if I’m going to smoke, I should be able to do it without paying a lot of extra money,” Hoffman said. “If the state is doing this to get more taxes, that really upsets me.”

State Sen. Joe Hune, R-Howell, said he has voted against raising taxes on cigarettes and sympathizes with people like Hoffman.

“If you look at the overall problem, it’s that the cigarette tax is too damn high,” Hune said. “It forces people to find alternatives to get their fix.”

Hune said he hasn’t studied SB 930 in enough depth to take a position, but “at a glance, it seems (the roll-your-own shops) are manufacturers. You put tobacco in a machine and it spits out cigarettes.

“There needs to be a level of fairness across the board, for large and small manufacturers.”

But Bitz said roll-your-own shops couldn’t obtain tobacco manufacturers’ licenses — which are issued by the federal government, not the state — even if they wanted them. Last year a federal court in Ohio ruled that the shops are not manufacturers.

“It’s a catch-22,” Bitz said. “They want us to get licenses that we can’t get.”

He said he believes lawmakers aren’t really interested in increasing cigarette revenues. What they want is to shut down the shops.

“I know what they’re doing,” Bitz said. “They’re getting their pockets padded by big tobacco. The tobacco companies think we’re taking their business, but it isn’t true. Eighty-five percent of our customers used to roll their own cigarettes (at home).”

Bitz, who has invested more than \$400,000 in his shops, said he isn’t going down without a fight. In addition to the petitions, he is meeting with lawmakers and working with other shop owners to “mobilize” customers and others against the bill, with the hope that the parties can reach a compromise on taxes.

He is also supporting the shops in a court battle with the federal Treasury Department’s Alcohol and Tobacco Tax and Trade bureau. The issue of who is a cigarette maker is currently tied up at the 6th U.S. Circuit Court of Appeals in the case of RYO Machine Rental v. United States Treasury.

Meanwhile, other states are moving against the roll-your-own shops, including Washington, whose Legislature is considering a bill similar to SB 930.

“I’m pretty angry,” Bitz said. “We relied on the way the law was to open these businesses. We’re small businessmen who are stimulating the economy. We employ people. Our customers save a lot of money, so they’re able to pay their bills and go out to eat.

"I'm not giving up, no. I can't afford to give up."

Rollin' Smokes customer Jerry Macklin, 65, said for her it's not only about money, it's about personal freedom.

"I don't like the government telling us what we can do," she said. "I think we have a right to smoke."

CIGARETTE SALES CONTROVERSY

By Paul Wagner

WICU NBC-12 (Erie, PA)

February 17, 2012

Roll your own tobacco stores are waging war against a bill in Harrisburg they say will force them out of business.

It would classify stores as "manufacturers," forcing them to tax their cigarettes at the same rate as packs and cartons bought elsewhere. It could mean an additional \$16 tax per carton.

Right now at Erie's Tightwad Tobacco, customers come for low prices, 58% less for "roll your owns", and 75% less for bulk tobacco purchased to roll at home. Customers are now signing petitions opposing the proposed legislation.

Customer Cindy Wassel said, "The few things you actually can save money on, the government finds a way to shoot it down. It's almost like nobody wants you to have the money you make. Everybody wants to take it away."

Store Manager Kathy Hart said, "These people make their own cigarettes. We don't manufacture their cigarettes. Big tobacco wants to shut us down so that people are forced to purchase packaged cigarettes."

But supporters of the bill say the current situation is costing the state tax revenue, and putting retailers of packaged cigarettes at a competitive disadvantage.

See full video here: <http://www.erienvnews.com/story/16962669/cigarette-sales-controversy?clienttype=printable>

PORTLAND JURY AWARDS \$25 MILLION IN TOBACCO CASE AGAINST PHILIP MORRIS

By Aimee Green
The Oregonian
February 18, 2012

A Multnomah County jury on Thursday awarded \$25 million in a low-tar tobacco verdict against Philip Morris.

Ten years ago, a county Circuit Court jury awarded \$150 million for punitive damages in the case after finding Philip Morris deceived a low-tar cigarette smoker into thinking she'd chosen a healthier alternative. A judge later reduced the amount to \$100 million and then the Oregon Supreme Court overturned the award because of the way the jury was instructed to deliberate.

This time, with a slight but important tweak to the instructions, a new 12-person jury decided how reprehensible the tobacco maker's actions were in causing the death of Salem resident Michelle Schwarz. The jury could have awarded up to \$300 million. Jurors were not told about the original verdict of \$150 million.

An attorney for Schwarz's estate, Chuck Tauman, said he was pleased with Thursday's verdict.

Juror John Vanvleet, 49, said the award amount was a compromise by the jury.

"Eight of us were on the very low end and four of us were on the high end," he said. "We came to a benchmark where we settled."

The benchmark discussed ranged between \$25 and \$50 million, Vanvleet said. He declined to elaborate on the factors that went into the decision.