

March 14, 2012

**\*\*Several news stories were published in the last 24 hours regarding New York City Mayor Michael Bloomberg's lawsuit against RYO shops. You can find the Mayor's press release here:**  
<http://www.nyc.gov/html/law/downloads/pdf/pr020612.pdf>

## **NY STATE, NYC SUE 2 ROLL-YOUR-OWN CIGARETTE SHOPS**

Associated Press

(Note: This was picked up by several media outlets, including the *Wall Street Journal* and WNBC)  
March 13, 2012

*The city Law Department and state Attorney General's office announced they were filing a federal lawsuit against BB's Corner in Brooklyn and Nitecap Entertainment on Staten Island*

New York state and New York City are joining forces against roll-your-own cigarette shops that help smokers avoid the taxes that usually up the price of a carton of cigarettes, authorities announced Tuesday.

The city Law Department and state Attorney General's office announced they were filing a federal lawsuit against BB's Corner in Brooklyn and Nitecap Entertainment on Staten Island. An ongoing effort by the city has already shut down six similar operations, said city Corporation Counsel Michael Cardozo.

Messages left with the two stores seeking comment were not immediately returned.

Attorney General Eric Schneiderman said the stores' were endangering customers by selling non-fire-safe cigarettes.

"The illegally low prices these businesses are charging for their store-made machine-rolled cigarettes have been shown time and again to encourage people to take up smoking and to discourage smokers from quitting," he said in a statement.

The stores sell customers loose tobacco and tubes of cigarette paper, then provide machines that quickly make the materials into cigarettes, all while taxing customers at the much lower rate reserved for loose tobacco. At some similar stores, customers can buy a pack of cigarettes for \$4 that could normally cost \$13.

Originally published here: <http://www.nbcnewyork.com/news/local/NYC-Lawsuit-Roll-Your-Own-Cigarette-Stores-142524585.html>

## **STATEN ISLAND SEX SHOP IS LATEST FRONT IN CITY'S BATTLE AGAINST ROLL-YOUR-OWN CIGARETTES**

By John M. Annese

The Staten Island Advance (NY)

March 13, 2012

A sex shop in Bloomfield is the latest business to be served a lawsuit as part of Mayor Michael Bloomberg's efforts to shut down roll-your-own tobacco stores.

Attorneys from the city's law department and state attorney general's office today announced that they filed a lawsuit in Manhattan federal court against Nitecap Entertainment, at 690 Gulf Ave., which runs a roll-your-own operation just a few feet away from the sex toys on the shelves.

The announcement comes as the owner of another shop, Victory Smoke Shop at 1765 Victory Blvd. in Castleton Corners, agreed to stop his store's roll-your-own business.

"Any business that tries to get around paying its taxes may as well be taking money away from companies that follow the rules," said Mayor Bloomberg in a prepared statement. "We won't let anyone break the law, especially one that helps prevent tobacco use among young adults."

The city and state have also filed suit against a Brooklyn store, BB's Corner, at 8415 18th Ave.

The federal lawsuit comes about three months after another store, Island Smokes in Great Kills, signed a consent degree to shut down both its Staten Island store and another branch in Chinatown in the face of a similar lawsuit.

Another Island roll-your-own store, New York Smokes at 1250 Hylan Blvd. in Grasmere, also entered into a settlement with the city agreeing to shut down by the end of last month, according to city officials.

"Regardless of who does the rolling, people are walking out of these stores with unsafe and untaxed cartons of cigarettes. It's unfair to the law-abiding businesses," said Corporation Counsel Michael A. Cardozo in a prepared statement.

Nitecap markets itself as "The Cleanest Dirty Store in America," and uses porn star Ron Jeremy in several promotional videos.

The suit against Nitecap and BB's Corner also marks the entry of the state Attorney General's office into the roll-your-own battle.

"The illegally low prices these businesses are charging for their store-made machine-rolled cigarettes have been shown time and again to encourage people to take up smoking and to discourage smokers from quitting," said Attorney General Eric Schneiderman.

The city and state alleges that roll-your-own stores evade cigarette taxes by providing its customers with loose tobacco, paper tubes, and access to a machine where they can make their own cigarettes. They also contend that the cigarettes do not follow fire safety rules.

Typically, customers buy what amounts to a carton of cigarettes, or 10 packs, for roughly \$30. A store-bought pack would otherwise cost \$10 to \$14 for a pack of 20 cigarettes, after customers pay the \$1.50 city tax and \$4.35 state tax.

Michael McGowan, the owner of Victory Smoke Shop, said he's not going to close his doors for good, but he'll change his business model to comply with the city.

He'll still sell loose tobacco, but customers will no longer be able to sit down at a table and use a machine in-store to make cigarettes.

Instead, he said, he'll be selling machines, including small hand rollers and electric rollers, so his customers can do the rolling work at home.

"We're gonna be selling coffee, gourmet hot dogs, all kinds of stuff," he said.

As for the lawsuit, he said, "Put it this way, we're not doing anything illegal, but who wants to deal with the stress?"

He added, "I'm fine with it. We're in a good spot. We're gonna switch the store around."

The Advance has reached out to the owners of Nitecap Entertainment seeking comment on the lawsuit.

*Originally published here:*

[http://www.silive.com/news/index.ssf/2012/03/bloomfield\\_sex\\_shop\\_is\\_latest.html](http://www.silive.com/news/index.ssf/2012/03/bloomfield_sex_shop_is_latest.html)

## **NEW YORK CITY ROLLS UP MORE LAWSUITS ON LOOSE TOBACCO ESTABLISHMENTS**

By Drew Grant  
New York Observer  
March 14, 2012

Well, we knew this was coming. Back in November, the city of New York filed a lawsuit against Island Smokes for avoiding the state's high cigarette tax by allowing customers to roll their own tobacco in-store.

While selling loose tobacco and not paying the cigarette tax isn't illegal, the lawyer for the city's corporation council affirmative litigation division, Eric Proshansky, declared that by helping patrons make their own cigs in the establishments, the stores were allowing people to leave with a finished product and thus circumventing the tax. So the question was: is a cigarette indeed more than the sum of its part?

Apparently so, since the city has decided to go after two more shops. Today the New York City Corporation Counsel and Attorney General Eric T. Schneiderman launched a joint filing against tobacco stores BB's Corner in Brooklyn and Nitecap Entertainment on Staten Island, for violating "the Federal Contraband Cigarette Trafficking Act, the New York State Cigarette Marketing Standards Act, and New York State tax law."

According to a memo released by NYC Law Department today, the stores are both guilty of lying about their product:

Despite claiming not to sell cigarettes, BB's Corner and Nitecap advertised "200 count cartons" of "smokes" for "\$29.95 per carton" – less than half of the amount of the taxes alone on a carton of cigarettes.

Since November, six stores have been shut down for allowing customers to roll their own cigs. "When one business doesn't play by the rules it hurts not only the taxpayers, who rely on tax revenue to pay for vital services, but all of the small businesses who do the right thing," said Finance Commissioner Frankel in the memo. "It is our job to help level the playing field for businesses and ensure all tax revenue due to the City is collected."

Currently New York City has one of the highest cigarette tax in the nation, with an extra \$5.85 tacked on to every pack bought in the city. So a pack of cigarettes in the city cost more than a nickel bag of marijuana...and is as practically illegal to smoke in public.

*Originally published here: <http://www.observer.com/2012/03/new-york-city-rolls-up-more-lawsuits-on-loose-tobacco-establishments/>*

## **SMOKE SHOPS 'ROLL' OVER**

By Bruce Golding  
New York Post  
March 14, 2012

Six smoke shops that used "roll your own" machines to sell untaxed cigarettes have agreed to pack it in, officials announced yesterday.

Meanwhile, the state Attorney General's Office joined in the city's effort to snuff out the latest targets in the ongoing crackdown.

BB's Corner in Brooklyn and Staten Island's Nitecap Entertainment were hit with a jointly filed suit charging them with violating anti-bootlegging laws.

The Manhattan federal-court filing says the stores have been evading more than \$58 per carton on roll-your-owns by letting customers use machines to automatically stuff tobacco into pre-rolled paper tubes.

The owners of BB's Corner and Nitecap Entertainment didn't respond to requests for comment.

*Originally published here:*

[http://www.nypost.com/p/news/local/smoke\\_shops\\_roll\\_over\\_YdCqL3rgiX97vhbLtVlKxL#ixzz1p5uJo91F](http://www.nypost.com/p/news/local/smoke_shops_roll_over_YdCqL3rgiX97vhbLtVlKxL#ixzz1p5uJo91F)

## **STATE JOINS CITY TO SHUTTER ROLL-YOUR-OWN CIGARETTE SHOPS**

By Allison Bowen

Metro New York

March 13, 2012

The state's top prosecutor yesterday joined an ongoing crusade by the city against roll-your-own cigarette stores.

The New York City Law Department announced a joint filing, by the city and Attorney General Eric Schneiderman, against BB's Corner, a store in Bensonhurst, and Nitecap Entertainment in Staten Island.

"Rather than playing by the rules, these stores ... are cheating the state and city of New York out of millions of dollars per year in legitimate tax revenue and endangering public health and safety while they're doing it," Schneiderman said.

Prosecutors say the two businesses claim they do not sell cigarettes, but instead give customers loose tobacco and tubes of cigarette paper.

Machines then fill the paper tube with tobacco to create cigarettes, which customers purchase by the carton, prosecutors said. Both businesses advertised 200-count cartons for \$29.95 — that's less than half the taxes alone on a carton of cigarettes.

Selling untaxed cigarettes keeps thousands of dollars in tax revenue from the city and state, prosecutors said.

The lawsuit seeks compensation for the lost tax revenue and to stop the sales and advertising of the cigarettes.

The city has targeted six other stores, in Manhattan, Staten Island and Brooklyn, and five of them agreed to close, said Connie Pankratz, with the city law department.

*Originally published here:* <http://www.metro.us/newyork/local/article/1123621--state-joins-city-to-shutter-roll-your-own-cig-stores>

## **BILL WOULD PUT SOME STORES OUT OF BUSINESS**

Letter to the Editor by Joshua Baba

Seattle Times (WA)

March 14, 2012

Lawmakers want to put 65 retail stores out of business during this session of the Washington state Congress. Roll-your-own cigarette machines in retail stores are under fire from Olympia because they

allow people to roll their own smokes. ["WA House: Roll-your-own cigarettes must be taxed," seattletimes.com, March 6.]

These retail establishments are mom-and-pop-type operations and are simply trying to service the public in a completely legal manner.

When a customer comes in, they buy loose tobacco, tubes, and if they want, they can rent a machine to make their smokes. Big tobacco companies like RJR and Altria have been sponsoring and pushing these bills along because they see these shops as potential threats to their billions of dollars.

David is fighting Goliath and these stores are struggling to keep their business. If the Legislature makes these family investments illegal after they have already put their life's savings into their store, they will all go out of business and almost 300 employees will be out of work.

In a struggling economy, the government should be encouraging small business ideas and entrepreneurship, not shutting them down. This is about defending all of our rights to choose. Please call your local representative to voice opposition to House Bill 2565.

*Originally published here:*

[http://seattletimes.nwsourc.com/html/northwestvoices/2017740413\\_ciglet14.html](http://seattletimes.nwsourc.com/html/northwestvoices/2017740413_ciglet14.html)

## **LETTER: MAKING ROLL-YOUR-OWN CIGARETTE SHOPS A MANUFACTURER WILL PUT SMALL STORES OUT OF BUSINESS**

Letter to the Editor by Larry Payne

The Saginaw News (MI)

March 13, 2012

I am the owner of two small businesses that specialize in products to roll your own cigarettes; one in Saginaw, one in Bay City. These businesses are among 39 similar businesses throughout the state that will be forced out of business if Senate Bill 930 is passed. This will result in the permanent layoff of about 150 people, 15 right here in Saginaw and Bay City.

In these difficult economic times, it is astounding that there are politicians trying to put local people out of business. One person we can put in this camp is the sponsor of S.B. 930, Republican State Sen. Roger Kahn from Saginaw.

Kahn has decided that any local tobacco retailer that has a roll your own cigarette machine in their store is a cigarette manufacturer. Despite repeated calls to his office, Kahn will neither return our calls or come to our business to explain his efforts to shut us down. A radio interview that Kahn gave showed he is grossly misinformed about the process, yet he chooses not to become informed.

Beholden to big business, the Republican-led Senate felt it necessary to suspend their own rules and skip public testimony to hurriedly approve the bill after being "lobbied" by big tobacco companies like Philip Morris.

These machines, one customer at a time, take all day to make what machines at Philip Morris can make in one minute. More to the point, the customers use the machine, not the retailers.

This bill is more taxation of consumers, more empty storefronts when local businesses close and more unemployment.

We have no place for legislators who place the agenda of big business over local constituents, and will be doing everything we can to ensure they soon join the unemployment line themselves. Help us by calling your local representative or senator. Tell them to leave small business alone and vote no on S.B. 930 on Wednesday, March 14.

*Originally published here:*

[http://www.mlive.com/opinion/saginaw/index.ssf/2012/03/letter\\_larry\\_payne\\_319\\_words.html](http://www.mlive.com/opinion/saginaw/index.ssf/2012/03/letter_larry_payne_319_words.html)

## **BUSINESS OWNERS SPEAK OUT AGAINST CIGARETTE SENATE BILL**

WLNS-6 (Lansing, MI)

March 14, 2012

Business owners and tobacco users will meet at the state capitol Wednesday to speak out against a bill dealing with cigarette rolling machines.

Under S.B. 930, any business with a cigarette rolling machine is considered a manufacturer and is subject to the same state taxes as Big Tobacco companies.

Members of the Roll-My-Own Coalition of Michigan say the bill would hurt businesses and be an economic setback to the community.

Patrick Brazil, owner of "That's How We Roll" in Lansing is one of the smoke shop business owners against the bill.

"I have eight employees. There are 31 stores across the state. If this bill passes, then all 31 stores will close. It means vacancies for rental spaces, that means employees will lose their jobs, there's going to be a lot of tax revenue that is lost due to this," he said.

He added, "Well I can't register as a manufacturer, that's the first problem. Customers themselves do it all. We don't do it. We don't have it (cigarettes) on stand -by for people to just come in a pick it up."

Supporters of the bill say the bill was created to tax all tobacco makers fairly.

The bill passed in the Senate last month and now moves to the House.

*Originally published here:* <http://www.wlns.com/story/17154312/business-owners-speak-out-against-cigarette-senate-bill>