

March 16, 2012

NY C-STORES APPLAUD ACTION AGAINST UNREGULATED RYO CIGARETTE DEALERS

National Association of Convenience Stores (NACS) Online News
March 16, 2012

NYACS is pleased with the announcement that the state attorney general would be suing two additional roll-your-own shops. Also, NACS will take this issue to Congress next week for NACS Day on Capitol Hill.

New York convenience store operators today applauded the initiative of state and local officials to halt the expansion of "roll-your-own" cigarette shops that are circumventing laws relating to taxation, public health and fire safety.

State Attorney General Eric Schneiderman and New York City Corporation Counsel Michael Cardozo yesterday announced they are suing two more RYO shops that dodge cigarette taxes and regulations by claiming they don't technically sell cigarettes, but merely facilitate their customers' use of an on-premise, self-serve cigarette rolling machine.

"We're grateful to Mr. Schneiderman and Mr. Cardozo for confronting the RYO nuisance head-on — by putting violators out of business unless they play by the rules," said Jim Calvin, president of the New York Association of Convenience Stores (NYACS), in a press release. By contrast, he said, state budget negotiators are currently considering an RYO plan focused on collecting more tax revenue, without addressing the double standard on enforcing myriad regulations governing cigarette retailing.

By hiking the excise tax on all loose tobacco as much as 800%, that plan would inflict collateral damage on legitimate retailers of take-home pipe and leaf tobacco. "If a tax hike quadruples the price of someone's favorite brand of pipe tobacco, he's not going to quit smoking, he's just going to quit coming to his local convenience store to buy it," said Calvin.

"He will quickly discover that while New York wants to charge him \$27 in tax on a six-ounce bag, Pennsylvania, Internet vendors, and tribal stores charge zero tax on the same product. Consequently, tax-collecting, law-abiding New York retailers will lose those customers, and the state and counties will lose all that tax revenue. Has New York State learned nothing from the cigarette tax evasion epidemic it created over the past 12 years through hyper-taxation?"

The better solution is for the Legislature to declare on-premise RYO activity what it really is — cigarette manufacturing, making it subject to the same taxes and regulations as pre-packaged cigarettes. A state bill to do that (S.6476 Libous/A.9085 Dinowitz) has been introduced and has widespread support, including NYACS.

Connecticut, West Virginia, Virginia, New York, and Wyoming have recently targeted the RYO machines, as they produce cigarettes at retail businesses that do not incur the same taxes as traditionally packed cigarettes.

Read more about RYO in the January issue of NACS Magazine.

What NACS Is Doing

At the federal level, U.S. Rep. Diane Black (R-TN) introduced H.R. 4134, a bill that would close a loophole in the Internal Revenue Code relating to the installation of RYO cigarette manufacturing machines at retail locations. The legislation would only apply to cigarettes manufactured through these machines after the bill is enacted, so it would not retroactively punish retailers who have been utilizing these machines by forcing them to pay taxes on goods they have already sold.

NACS is encouraging members of Congress to support bill, which would simply clarify that retailers who permit consumers to use commercial RYO cigarette machines to produce cigarettes are classified as “manufacturers” of tobacco products.

Next week, retailers will be discussing this and other key industry issues with House and Senate members and their staff during NACS Day on Capitol Hill.

Originally published here: <http://www.nacsonline.com/NACS/News/Daily/Pages/ND0316122.aspx>

A CALL TO END DOUBLE STANDARD FOR RYO CIGARETTE DEALERS

Press Release from the New York Association of Convenience Stores

March 15, 2012

Convenience Stores Set Friday Press Conference, Want 'Roll-Your-Own' Shops Held to Same Regulations As Everyone Else

A new breed of retail tobacco dealer has emerged in the Capital District and across New York State -- smoke shops offering self-serve, roll-your-own cigarettes at a fraction of the price of pre-packaged national brands. Because they circumvent state laws dealing with taxation, fair competition, public health and fire safety, their business is booming.

This week, state Attorney General Eric Schneiderman and New York City Corporation Counsel Michael Cardozo announced they are suing two RYO shops that dodge cigarette taxes and regulations by disingenuously claiming they don't technically "sell" cigarettes, but merely facilitate their customers' use of an on-premise cigarette rolling machine.

Convenience stores that carry pre-packaged cigarettes are losing sales, and state and county governments are losing tax revenue, to dubious roll-your-own businesses. Competition is healthy, as long as all competitors have to play by the same rules -- a requirement of maintaining a retail tobacco dealer license from the state Tax Department.

Now that the Attorney General has made clear that these roll-your-own establishments are operating in violation of a multitude of state laws, the New York Association of Convenience Stores believes that the Tax Department should initiate enforcement action to revoke their licenses unless and until they abide by the same regulations everyone else is required to follow.

WHO: New York Association of Convenience Stores

WHAT: Press conference on the need to halt the regulatory double standard for roll-your-own cigarette shops in order to protect taxpayers, fair competition, public health, and fire safety.

WHEN: Friday March 16, 2012 at 12:15PM Eastern Time (US & Canada)

WHERE: Airport Mobil Convenience Store
1114 Troy-Schenectady Road
(across from Keeler Motor Car)
Latham, New York 12110

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ROLL-YOUR-OWN CIGARETTE SHOP IN DeWITT RATGET OF LAWSUIT FROM STATE ATTORNEY GENERAL

By Glen Coin
Syracuse Post-Standard (NY)
March 16, 2012

The state Attorney General's office is suing the Tobacco House roll-your-own cigarette shop in DeWitt for breaking federal cigarette-manufacturing laws and evading cigarette taxes.

The lawsuit charges that the Tobacco House, where customers buy loose tobacco and use a machine to roll 200 cigarettes for \$28.99, violates several state and federal laws.

“Rather than playing by the rules, this store and others like it are cheating the state out of millions of dollars per year in legitimate tax revenue and endangering public health and safety while they’re doing it,” Attorney General Eric Schneiderman said in a statement. “The illegally low prices this business is

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."

The state's lawsuit charges that the Tobacco House is in violation of the Federal Contraband Cigarette Trafficking Act, the New York State Cigarette Marketing Standards Act, and New York State tax law, for selling cigarettes on which the required taxes have not been paid. The lawsuit also says Tobacco House is violating New York's Cigarette Fire Safety Act by selling cigarettes that have not been certified as "fire-safe" to extinguish more quickly than standard cigarettes, and which bear no health warnings, both of which are required by New York State law.

The state and New York City have sued several other similar stores Downstate.

Originally published here: http://www.syracuse.com/news/index.ssf/2012/03/ag_to_sue_roll-your-own_cigare.html

WASHINGTON LEGISLATURE: ROLL-YOUR-OWN CIGARETTES TAX HAS CHANCE OF PASSING IN SPECIAL SESSION

By Justin Runquist
The Oregonian
March 15, 2012

Special legislative sessions can mean new life for bills that died earlier on.

This time around, lawmakers intend to zero in on the budget. Still, some bills left hanging in the 60-day session might be revived, while others are definitely staying dead.

Roll-your-own cigarettes tax:

House Bill 2565 passed the House 67-30 on March 6 and then ran out of time two days later in the Senate. The bill would extend the tax on cigarettes -- currently 15 cents per cigarette -- to roll-your-own cigarettes sold in stores throughout Washington, like Vancouver's U-Roll-M Tobacco Shop.

Rep. Jim Moeller, D-Vancouver, said the bill has a decent shot at resurrection during the special session.

He and other Vancouver Democrats Sharon Wylie and Tim Probst, along with La Center Republican Ann Rivers, supported the bill when it came to the floor. Rep. Ed Orcutt, R-Kalama, voted against it.

The budgeting process focuses on reform, cuts and new revenue, Moeller said. This bill would provide more revenue for the state.

The measure would also level the playing field on cigarette prices, he said. Without the tax, roll-your-own cigarettes are cheaper for consumers than pre-rolled cigarettes.

"It's a question of fairness," he said. "Why don't we just have everybody pay the same and go from there?"

Originally published here: http://www.oregonlive.com/politics/index.ssf/2012/03/in_the_capitol_roll-your-own_c.html

STATE DEBATES TOBACCO TAX INCREASE

By Jim Bach

Diamondback Online (University of Maryland Student Newspaper)

March 16, 2012

Officials maintain tax is for health reasons, some see cash grab

The cost of lighting up a cigarette may soon increase if the state approves proposed legislation that would raise the tax on tobacco products — a measure some opponents have said is simply a revenue-generator disguised as a health campaign.

Sen. Jennie Forehand (D-Montgomery) and Del. Eric Luedtke (D-Montgomery) have both proposed Senate and House of Delegate bills that would increase the tax for tobacco products by \$1. The tax on other tobacco products — including smokeless tobacco, moist snuff and roll-your-own tobacco — would increase from 15 percent of the wholesaler's price to 95 percent.

The current cigarette tax adds \$2 to the price of a pack. Although the new tax would only be \$3, state legislators estimate the increase would generate between \$19 million and \$30 million. That revenue would help fund tobacco cessation programs aimed at curbing use through media and educational campaigns.

Proponents of the legislation said it's important for the state to pursue these measures because increased taxes act as a deterrent to smoking and would help address pressing public health concerns.

"Tobacco tax increases save lives," said Vinny DeMarco of the Maryland Citizens' Health Initiative, a Baltimore-based health-care consumer coalition. "We've seen that with the cigarette tax."

Since 1999, the state has seen incremental tax increases on cigarette sales, including a 30-cent increase in 1999 and a \$1 increase in 2008. Since then, adult smoking rates in the state have declined 32.6 percent saving 70,000 lives, according to a 2010 report by Tax Burden on Tobacco.

Despite the bill's intention to address health issues, opponents of the tax said they believe the increase is simply a way to address budget issues. The state is currently shouldering a \$1.1 billion deficit and has been looking toward revenue-raising measures, in conjunction with spending cuts, to close the gap.

"Whenever the state believes it needs money they turn to that group of the adult population in Maryland and tax," said Bruce Bereano, a state lobbyist representing tobacco wholesalers. "I think that's discriminatory. I think it's picking on that population and, of course, it's done ostensibly, and it's done under the guise that it will stop them from smoking."

Some students, such as senior English major James Reichard, said the state should take measures to address public health concerns associated with cigarette and tobacco products, but were skeptical that the revenue raised by the tax would actually go into funding such efforts.

"I wonder if this is really the true exigency for raising the tax," he said. "There's a big problem with state budgets."

Reichard said he felt the bill's intent to curb tobacco use is just "convenient rhetoric" for a state that is working to patch budgetary holes.

Ehsan Roshan, a graduate student studying medicine, said he doesn't believe the tax will curb the use of tobacco products.

"I think the state just wants a little bit more money," he said. "It all comes down to money at the end of the day."

Bereano added he believes the taxes are not reducing smoking and the use of tobacco, but rather that state residents are "buying their cigarettes elsewhere." Nearby states Pennsylvania and Delaware only charge \$1.60 in taxes per pack.

Bereano said since residents are already going on tobacco runs, they could be inclined to purchase groceries or gas in other states as well.

"The state is losing a lot of money in cross-the-border sales," he said. "The other states love it."

Originally published here: <http://www.diamondbackonline.com/news/state-debates-tobacco-tax-increase-1.2820536#.T2NVOvWd7To>