



DAILY NEWS CLIPS

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ROLL-YOUR-OWN: GOOD NEWS FOR SMOKERS, UPSETTING TO OTHERS

By Denise Konkol
Muskego Patch (WI)
May 9, 2012

New 'roll your own' business allows customers to make their own cigarettes for about half the cost of regular packs, but not everyone is welcoming the new business, and state regulations may close a loophole that could close many.

Smokers who have seen the cost of packs and cartons of cigarettes rival that of a week's pay in poorer countries are happy to see Muskego's newest business: Roll-N-Go Tobacco.

Co-owner Dave Dassow said people have been stopping in to try the alternative to prepacked cigarettes, which saves them about 50 percent of the cost. The trade off is that they have to roll their own (RYO). Or, more technically, have the tobacco 'blown' into a paper tube in a large machine.

Customers pick the loose tobacco blend and load the machine, which costs store owners an average \$32,000 to purchase, watching as the individual cigarettes are created and deposited in a chute for them to box up. It takes about eight minutes (or 25 cigarettes per minute) to get a carton of cigarettes made.

However, not everyone is thrilled to see the RYO business move in.

Local store owners whose cigarette business represents XX percent of their store sales argue that the process is unfair to them. RYO operators have been able to take advantage of a tax loophole, which allows them to sell the cigarettes at a much lower price. As many store owners of the self-service market view themselves as rental companies and not cigarette manufacturers because it's the customer, not them, making the cigarettes, the Wisconsin Department of Revenue has responded.

A convenience store pays \$35.21 just in taxes charged on a typical carton of 200 cigarettes. Roll your own tobacco is taxed at \$24.79 per pound at the federal level. A pound yields approximately two cartons worth of homemade cigarettes, which nets these businesses a significant savings to pass along to customers.

"It's like money in their pocket, when you think of the taxes they aren't paying for the same thing we sell," said Hardy Bhatti, who owns the Muskego Mobil station and says cigarette sales account for 75

percent of his business. He also sells loose tobacco for about \$22 in a bag that would likely make two cartons' worth.

A memo sent from the State Department of Revenue in September 2011 told retailers operating a RYO machine on premises to make cigarettes with loose tobacco are both a manufacturer and distributor. This would require the retailer to obtain additional permits and certifications, and to sell more than 50 percent of the RYO cigarettes wholesale to other retailers or vending machine operators. The memo matched a ruling from the United States Alcohol and Tobacco Tax and Trade Bureau.

Jill Blenski, with the Muskego clerk's office, said the requirement is now suspended, as the U.S. District Court in Ohio filed a temporary restraining order preventing the federal bureau from enforcing the provisions outlined in its decision and that of the Wisconsin DOR. In December, the temporary restraining order was replaced with a preliminary injunction until a resolution is reached on that appeal. In other words, Roll-N-Go so far does not have to comply with the September memo. Otherwise, Blenski confirmed that the business does have the proper licensing to operate.

Should the courts rule in favor of the state, store owners risk fines or shutdown if they don't comply with the terms of the memo. The costs to comply, say owners of RYO businesses, would basically eliminate any savings they could pass along to consumers, and basically remove their competitive advantage.

For now, the owners of Roll-N-Go hope to keep their machine - and their new business - rolling.

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TAX COMMISH, JESPER VS. ROLL-YOUR-OWN CIGS AT SESSION'S END

By Brian Lockhart
CT News Blog (CT)
May 9, 2012

There's a lot going on behind-the-scenes in these final 24 hours of the 2012 legislative session, as lawmakers and lobbyists try to save or kill bills before Wednesday's midnight adjournment.

One of the more fascinating fights is being waged over smoke shops that provide customers access to cigarette rolling machines.

On one side are the Department of Revenue Services (DRS) and the Attorney General (AG). They argue the state is not only losing tax dollars to these businesses but, if legislators turn a blind eye, could actually be in violation of the 1998 tobacco settlement and lose out on those hefty payments.

On the other side is Tracey Scalzi who said if DRS and the AG prevail, she'll have to shutter her two smoke shops in Orange and Norwalk and let go of her 15 employees.

The conflict in a nutshell...

Some smokers like roll-your-own shops because those businesses do not charge hefty cigarette taxes, allowing them to reduce the price of a carton in some cases by about half the amount charged by other vendors.

The DRS and the AG took roll-your-own shops in general and Scalzi specifically to court, arguing the businesses are in fact manufacturers and must pay the related taxes/fees like everyone else who competes in that market. As manufacturers roll-your-owns would also fall under the terms of the 1998 settlement between states like Connecticut and Big Tobacco.

But in February a state Superior Court judge ruled the roll-your-own shops are NOT manufacturers.

So DRS Commissioner Kevin Sullivan came up with a Plan B – convince the General Assembly to define roll-your-own shops as manufacturers.

The Finance, Revenue and Bonding Committee raised a bill on Sullivan's behalf.

But Rep. Pat Widlitz, D-Guilford, a committee chair, said because Sullivan approached them late in the 2012 session, they never held a public hearing on the proposal.

Cut to the past week or so at the Capitol.

Scalzi has been roaming the halls pleading her case to legislators. At the very least she wants them to leave her alone for a year and give her and other roll-your-own shops the benefit of a public hearing during the 2013 session.

"(My machines produce) 200 cigarettes in 8 minutes. It's not a huge manufacturing plant," Scalzi said Tuesday evening. "In the court's eyes I'm doing nothing wrong."

Sullivan has also been working the legislature. He said on Monday that DRS offered a refined proposal, more focused on requiring the shops pay taxes than on defining them as manufacturers and imposing those related expenses.

"They said, 'We can't do that.' Why not? 'Because our entire business model is shaped around not paying taxes,'" Sullivan said. "Well, there's the problem."

And then there's the 1998 tobacco settlement which, essentially, requires participating states strictly enforce tobacco laws so no one business has a special advantage.

Sullivan said, "The AG's office in particular is very concerned the longer we are in a position of noncompliance with roll-your-own the more likely it is the settlement gets to be at risk. That's a lot of money for the state."

Widlitz said legislators are trying to find a compromise before the clock strikes midnight Wednesday.

"No one wants to hurt a small business person who is working very hard to support her family," Widlitz said. "(But) the way she's selling cigarettes is undercutting stores around her."

Widlitz's co-chair, Sen. Eileen Daily, D-Westbrook said the legislature could also let the matter continue to play out in court.

"I'm having a difficult time knowing this is likely to put some people out of business," Daily said.

Sen. Gayle Slossberg, D-Milford, who also represents Orange, said she too is looking for a solution that helps Scalzi.

The state cannot lose the tobacco settlement cash, she said.

"I feel horrible for her. She's in a real difficult situation," Slossberg said.

Rep. Christopher Perone, D-Norwalk wants the state to leave Scalzi alone.

"Give her a break and let her run her business," he said.

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ROLL YOUR OWN TOBACCO TAX

By KMAS News Radio

Mason County Daily News (WA)

May, 8 2012

Governor Gregoire signed a bill which adds state cigarette tax to products sold at roll your own shops. It's a much needed source of revenue for our cash-strapped state, but it could also be a fatal blow for small businesses like DIY Tobacco in Bremerton, according to Owner Casy Kroesser, "If somebody decides that they want to take their own time and their own manual labor and take 10 minutes to roll 200 smokes, they should save money by doing the manual labor"

DIY sells pipe tobacco and rolling paper to people who use machines in the store to roll their own cigarettes for about half of what they'd pay at a convenience store. Some argue that, by claiming to sell pipe tobacco, stores like DIY are exploiting a tax loophole.

During the bill's debate in the state legislature, Democratic Representative Chris Hurst from Enumclaw envisioned the bill having a vastly different effect on small businesses and employees,

"This is not a job killing bill, this is a job saving bill, this is not a business killing bill, this is a business saving bill".

Kroesser hasn't given up. She's working on ways to save her business, and the jobs of her 14 employees. The new tax goes into effect this summer

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OWNER OF TOBACCO SHOP MAY SUE OVER TAX CHANGE

By Jerry Cornfield
The Herald (WA)
May 9, 2012

Joe Baba doesn't know what his customers will do when the price surges for cigarettes they roll and purchase at his Everett Mall Way store.

But the owner of Tobacco Joes knows how he's going to respond to the freshly minted state law forcing the hike: sue.

"It will happen in the very near future," Baba said last week when asked when and where he plans to launch his legal fight.

Baba is an emerging face of a niche industry offering smokers a way to save money on cigarettes by buying tobacco and using an automated machine to roll their own.

Right now, customers of his store in Everett and similar establishments around the state avoid paying hefty cigarette taxes by making smokes with brands of pipe tobacco, which are taxed at lower rates.

The law signed Wednesday by Gov. Chris Gregoire will tax all varieties of loose tobacco offered in the stores at the same rate as that used in packaged cigarettes. The change takes effect July 1.

Baba estimates the law will effectively eliminate the price difference between those rolled by hand and those sold in stores.

Today you can buy the equivalent of a carton of cigarettes at his store for about \$39, but after July 1 those smokes will cost around \$20 more, he said.

State revenue officials estimate the average price of a carton of roll-your-own smokes in Washington will be \$67.60 -- only three dollars less than the average paid for a conventional carton of state-taxed cigarettes.

"This will create far less customers to some of the stores, maybe most of the stores, maybe all of the stores," Baba said. "It depends on customer loyalty. Will it be strong enough to stay in business? That's the question."

Baba also owns Roll Your Own Northwest, the company which sells and services cigarette-making machines used in his Everett store and roughly 65 other establishments around the state.

He's been fighting the tax change legislation since its introduction in the Legislature. He wrote Gregoire and urged her to veto the bill, arguing in part the lower prices aid smokers living on little income.

"We are HELPING these customers by saving them much needed finances during one of the most depressing economies of our lifetime," he wrote. "These customers are already addicted to smoking and will continue to smoke whether our stores are open or not. We are simply providing them the opportunity to save some money by making their own smokes."

Gregoire said Wednesday she never seriously considered vetoing the bill.

"What's fair is fair. If you're going to tax cigarettes, you tax them and you tax them the same, whether they are in a package or out of a package, whether they are roll your own or they're pre-rolled," she said.

"Let me be clear, who pays for the health care costs associated with the addiction of this product and the resulting health care problems of people who use it? Taxpayers do," she said. "If they want to roll their own they are free to roll their own but they will pay the same tax. That to me is fundamental fairness."

The state Department of Revenue estimates Washington will collect roughly \$13 million a year in new tax revenues as a result of the law -- and that's with a big predicted drop in sales in existing outlets.

Revenue analysts estimate 7.1 million packs of roll your own cigarettes are sold statewide each year. This is based on 20 cigarettes a pack.

In preparing a fiscal note for the new law, analysts assumed the price increase would cause a 45-percent drop in the number of cigarettes produced in existing outlets to 3.9 million packs.

If that comes true, many of the stores will close, Baba predicted.

"If my volume in my store goes down 50 percent because of the increase in price, I may not stay in business and if that happens at other stores, the Roll Your Own Northwest can't stay in business," he said.

But Baba remains confident the courts will undo the law.

He contends the change is at odds with terms of a settlement reached several years ago between major tobacco firms and states, including Washington. He says that at the least imposing this tax will put Washington at risk at losing some of its share of money its due from the agreement.

Gregoire, who led the negotiations that led to the national agreement, said that isn't true and nothing in the law conflicts with the settlement.

"I don't know what their lawyer is taking about," she said.

Baba isn't retreating.

"Round 1 went to the state," he said. "We believe we will win Round 2 in the courts."

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BIG TOBACCO & BIG GOVERNMENT TOGETHER AGAIN

By Timothy P. Carney

The Washington Examiner

May 8, 2012

Altria Group Supports Enactment of Tobacco Industry Regulation

**Richmond, Va.
June 22, 2009**

Today Altria Group called President Obama's signing of legislation giving the Food and Drug Administration regulatory authority over tobacco products an important and historic achievement. The company has supported tough but reasonable federal regulation of tobacco products for more than eight years.

"We have consistently advocated for federal regulation that recognizes the serious harm caused by tobacco products, that helps ensure tobacco companies do not market tobacco products to children and that also acknowledges that tobacco products are and should remain legal products for adults," said Michael E. Szymanczyk, Altria Group's chairman and CEO. "We believe a comprehensive regulatory framework, implemented thoughtfully, can provide significant benefits to adult consumers."

Cigarettes are taxed at a higher rate than cigars and pipe tobacco. So cigarette companies are lobbying to change this -- by trying to hike taxes on their competitors, according to Peter Suderman at Reason.

Suderman is right to use the term "not-so-odd couple" to describe "cigarette companies and public health advocates, both of which agree that pipe tobacco should be taxed at the higher rate."

You see, Big Tobacco has aligned for over a decade with those who want more government control over tobacco.

You may recall the massive tobacco settlement of the late 1990s. I explained in my 2006 book, *The Big Ripoff*, how Big Tobacco supported that settlement as a way to protect the biggest companies from smaller competitors.

Also, Philip Morris, the biggest tobacco company, lobbied for and benefitted from Obama's 2009 tobacco regulation bill.

It's a nifty trick. Get really big. Make state budgets dependent on your profitability, then work with government to kill new competitors.

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YOUR VIEW: SOULD THE GOVERNMENT RAISE TAXES ON PIPE TOBACCO

Post by My Suburban Life (IL)

May 8, 2012

Western suburbs — Should the government raise taxes on pipe tobacco and cigars?

Congress increased the tax on cigarettes and roll-your-own tobacco three years ago. Now, there are indications that smokers are using pipe tobacco to roll their own cigarettes and cigars to avoid the costly taxes. Should the government raise taxes on pipe tobacco and cigars?

Leave a comment below, or e-mail your thoughts to us at opinions@mysuburbanlife.com..

Originally published here: <http://www.mysuburbanlife.com/streamwood/highlight/x43411178/Your-view-Should-the-government-raise-taxes-on-pipe-tobacco-and-cigars>

PROP 29 PROPONENTS LAUNCH ADS ATTACKING BIG TOBACCO

By Kevin Yamamura

The Sacramento Bee (CA)

May 8, 2012

Backers of a tobacco tax initiative responded today with a trio of ads that seek to undermine the credibility of their tobacco-funded opposition, including two ads featuring cyclist and cancer survivor Lance Armstrong.

The 15-second television spots began airing in Northern California markets this morning, according to the Yes on 29 campaign. The initiative would add a new \$1 tax per pack of cigarettes to fund cancer and heart disease research.

Proponents are trying to respond specifically to an ad featuring San Joaquin General Hospital physician La Donna Porter, who criticized the initiative while wearing a doctor's smock in an ad that aired statewide for the past two weeks. The opposition campaign has raised nearly \$40 million so far, nearly all from tobacco firms R.J. Reynolds and Philip Morris USA.

In the opposition ad, Porter said Proposition 29 would create a new bureaucracy and allow research funding to flow out of state.

One of the new Yes on 29 ads directly responds to the Porter ad with a screen shot of her, an emphasis on the words "Philip Morris" and "R.J. Reynolds" and visuals of cigarettes. The announcer says, "29 hits them in the wallet."

In another ad, Armstrong wears a "Livestrong" shirt and asks, "Why is Big Tobacco spending millions to defeat Prop. 29?" Three doctors then appear in succession to explain the merits of the initiative, followed by a fourth who says, "Stop Big Tobacco's lies."

In the third ad, Armstrong says, "Who do you trust to save lives?" The ad then features nonprofit backers from groups including the American Heart Association and American Cancer Society.

Proponents thus far have raised \$4.2 million, including \$1.5 million from the Lance Armstrong Foundation. Jim Knox, a lobbyist for the American Cancer Society, called it "a gigantic David versus Goliath battle."

Despite the Armstrong ads already hitting the airwaves, Knox and campaign consultant Steve Smith were cagey Tuesday about the commercials featuring the cyclist. In a press conference, they referred to "two or three ads" being on the air, but they declined to divulge details about the Armstrong ones and suggested they were unaware what they contained. They focused their announcement on their Porter response commercial.

Knox mentioned that Armstrong would be with the campaign Friday in Los Angeles.

Smith and Knox emphasized two things - that tobacco companies were funding the opposition and that a tax on tobacco would stop kids from smoking because young people are particularly sensitive to price.

When asked why the money goes to cancer research instead of other priorities, such as schools or health care funding, Knox said the Legislature has had opportunities to raise tobacco taxes for the general fund budget but caved to pressure from tobacco companies. He also said voters would not support a tax that pays for the state general fund, suggesting that voters don't trust lawmakers with the money.

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