



DAILY NEWS CLIPS

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'ROLL YOUR OWN' SMOKE SHOPS UNPOPULAR WITH KANSAS AGENCIES

By Michelle Pekarsky
Fox 4 Kansas City (KS)
May 11, 2012

"Roll your own" cigarette shops in Kansas are feeling the heat from the Kansas Attorney General's Office, State Fire Marshall, and Department of Revenue.

Kansas shut down several "roll your own" shops for a variety of reasons. They say they are concerned the product isn't safe and that the paper doesn't meet regulatory standards.

Tom Erickson and his wife opened Trader Jacks Tobacco in Blue Springs and another shop in Shawnee. When you walk into the shop, you buy the tobacco and the empty tubes, and fill them yourself.

Among others, the issue is that Kansas wants to list these shops as manufacturers. Erickson disputes that, saying he's a merchant. He sells the tobacco. He sells the tubes. Then he rents the space and the equipment to roll it.

Erickson and other shop owners have joined together to fight to keep their Kansas stores open. In Missouri, legislation has stalled and it's status quo for the shops there.

Erickson says the shop is fun because of the great staff and unusual product.

"We don't add any fillers. There's no preservatives to it. But it will still kill you," he said. "It's not safer. It's a better smoke."

He says he'll continue to fight for his employees.

"We give them a 401K retirement program. We offer health insurance, so we're really trying to be good corporate stewards," he said

The shops have reopened and the issues will be settled eventually in court.

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FOR NOW, ROLL-YOUR-OWN SHOPS CAN BREATHE EASY

By Brian Lockhart

CT Post –Bridgeport, Connecticut

May 12, 2012

Tracey Scalzi spent last week walking the halls of the Capitol trying to convince legislators to save her eponymous roll-your-own cigarette shops in Norwalk and Orange.

The long drive and hours for the Norwalk resident may have paid off.

A bill sought by the Department of Revenue Services and Attorney General George Jepsen forcing around 15 tobacco shops to pay certain fees and taxes did not come up for a vote before the Legislature's adjournment Wednesday.

Scalzi, whose business model relies on selling cheaper roll-your-own cigarettes, claimed the measure would have forced her to close and lay off her 15 employees.

"I think my message has been heard," she said Thursday.

The matter is not concluded. Legislators plan when the General Assembly reconvenes in a few weeks to address remaining budget business to pass a measure they hope satisfies Revenue Services, the attorney general and smoke shops like Scalzi's.

"We've come up with language that we think will, as I put it to Tracey, make her happier than she is now," said Rep. Patricia Widlitz, D-Guilford, a chairman of the Finance, Revenue and Bonding Committee.

Scalzi's been fighting with the state since last year when DRS demanded roll-your-own shops obtain a cigarette manufacturing license and pay the same hefty cigarette taxes levied on packaged cigarettes.

Scalzi's customers rent out in-store machines to roll loose tobacco into 200 cigarettes in eight minutes, enjoying a price break over smokers who buy traditional sealed cartons.

But the state argues that, besides not paying her fair share of taxes, Scalzi is unfairly undercutting competitors like grocery and convenience stores that charge cigarette taxes.

Jepsen's office has a third concern. The attorney general believes if the state turns a blind eye to businesses like Scalzi's, Connecticut could be in violation of the 1998 multi-state tobacco settlement worth millions in annual revenues.

Jepsen last week declined to elaborate, but DRS Commissioner Kevin Sullivan, Widlitz and state Sen. Gayle Slossberg, D-Milford, whose district includes Orange, individually confirmed his fears.

"The attorney general'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," Sullivan said at the Capitol. "That's a lot of money for the state."

Sullivan and Jepsen initially sought to solve the dispute by taking Scalzi to court. But they suffered a setback in late February when a Superior Court judge concluded roll-your-own shops are not manufacturers as long as the customers are the ones operating the machines.

Although the matter is under appeal, Sullivan turned to Widlitz's finance committee, asking legislators to pass a statute forcing Scalzi and other roll-your-own shops to do what the court so far has not.

The judge's ruling, coupled with the fact the bill was drafted after the committee's public hearing deadline, gave many legislators pause.

"Any time there isn't a public hearing, that raises some questions," said Slossberg.

Scalzi said she is not sure what solution the Legislature will come up with in the coming weeks, but remains optimistic.

"I'm taking Representative Widlitz at her word," Scalzi said. "If she tells me, 'You'll be OK,' I believe I'll be OK."

But Widlitz also indicated the solution may not necessarily be everything Scalzi hopes for.

"It's not our goal to harm people who are in business, especially small-business people," Widlitz said. "(But) it's not just about her. It's also about all the people she's undercutting by selling them (cigarettes) under-priced."

Other notes in Connecticut

Roll-your-own cigarettes have been a bit of a hot topic lately. A recent report shows that more than \$1.3 billion in state and federal revenue was lost between April 2009 and August 2011 as a result of tobacco manufacturers relabeling roll-your-own tobacco as pipe tobacco. Connecticut alone lost more than \$3 million.

On Friday, Sen. Richard Blumenthal, D-Conn., announced his introduction of the Tobacco Tax Equity Act, which would close loopholes in the tax code that allow tobacco companies to avoid the federal cigarette and roll-your-own tobacco tax. "Incredibly, the tobacco industry continues to seek profits by addicting children and avoiding taxes," Blumenthal said in a news release issued Friday afternoon.

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STATE TAX ON ROLL-YOUR-OWN CIGARETTES WILL HIT IN JULY

By C.R. Douglas

Q 13 Fox –Seattle, Washington

May 11, 2012

Price of a carton will go from \$40 to about \$80

One little-known part of the recent state budget deal was a tax on roll-your-own cigarettes. Legislators wanted to bring it in line with the high tax that is already charged on regular, manufactured smokes. Businesses that offer this service say the state's action is unfair and illegal.

"It's different because the person is involved in the making of it, so it's a completely different product," said Brandon Johnson of Natural Smokes on Capitol Hill.

The roll-your-own industry has been growing in recent years, mostly as a way of getting around the high taxes on regular cigarettes. There are now about 65 roll-your-own outlets around Washington; these are places where you buy raw tobacco of your choice, put it in machine and out pops a carton of cigarettes.

Starting in July, a carton of roll-your-own cigarettes will double in price, from about \$40 to about \$80.

Some state legislators say this new tax violated Initiative 1053, which requires a supermajority for a tax increase.

"The people said, 'Two-thirds' vote of the Legislature while in session to increase a tax or to create a tax,'" state Sen. Pam Roach, R-Auburn, said. "It's an increase if it didn't exist and now it does."

But other legislators, who voted for the roll-your-own tax, argue it's not a new tax at all. "What this does is simply extend an existing tax to a product that is enjoying a tax loophole," state Sen. Karen Kaiser, D-SeaTac, said. "That was the ruling of the president of the Senate."

It is true that an extension of an existing tax would be allowed under I-1053, and that's what supporters say this is. They argue they simply redefined what a cigarette is so that the existing tobacco tax would include non-manufactured products as well.

Store owners are vowing to go to court. They also say that the new tax is unlikely to raise the \$12 million in revenue that is expected.

Customers "are concerned about the tax and most of them would go back to rolling their own at home if the tax were put into place," Johnson said.

But supporters say taxing the growing roll-your-own industry is not just about revenue.

"The issue here is a tax loophole," said Kaiser, "and the tax loophole was going to be used, we thought, for an exponential increase in the sale of cigarettes in our state."

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MACHINE MAKES CIGARETTES FOR LESS

By John Henderson

The Rocky Mount Telegram (NC)

May 12, 2012

David Gomi and business partner Adam Chen saw a world of potential in Rocky Mount as a location for their new business, Tobacco Direct.

The business at 1240 Home Depot Plaza has machines that allow customers to roll 200 smokes in eight minutes from tobacco grown locally.

In the down economy with businesses closing locally, people are looking for reasonably priced smokes, Gomi said. And the machine price of \$19.95 for 200 rolled smokes is less than half that of premanufactured cigarettes, he said.

Gomi, who owns a Subway restaurant on N.C. 97, and business Chen, who owns the Rainbow Garden Chinese Restaurant next door, saw the machines being used in Virginia and were sure that Rocky Mount was the place to open such a business.

“We found out about these machines through Adam’s relatives, and then we went to Virginia to look at them,” Gomi said. “There was a person in Virginia that has opened up five of these stores. We just looked at the machines, and saw customers using machines, and we were so enthralled.”

The rolled smokes do not have nearly as many chemicals and additives as regular premanufactured cigarettes, Gomi said.

There are couches and a television inside of Tobacco Direct for people to sit down and relax. Under the law, people can’t smoke the cigarettes inside, but can go outside and take a drag. There’s an ashtray for them.

“We are trying to maintain that ambiance or environment for smokers, because tobacco has such a history in North Carolina,” Gomi said. “There are going to be people probably strongly opposed to or in support of smoking tobacco, but you cannot deny the strong history of smoking in North Carolina.”

Q: What products or services do you provide?

A: Freshly rolled smokes. There is a difference between cigarettes that are premanufactured and rolled smokes. The tobacco we sell is from Wilson and is locally grown. They are better than premanufactured cigarettes. I cannot say the (rolled cigarettes) are chemical-free, because there may have been some fertilizer or some kind of chemical used (when the tobacco was grown). But the rolled cigarettes don’t have ammonia and other chemicals (in premanufactured cigarettes.) If you saw a list of all the chemicals that go into those cigarettes, it would astonish you. Ninety-nine percent of (the chemicals) is not in (the rolled smokes). We’ve had customers come in here and said that after smoking the rolled cigarettes, the burning (sensation) is not there. It’s clean. We offer freshly rolled smokes without all the chemicals and at an affordable price.

Q: Who are your key leaders?

A: Owners David Gomi and Adam Chen.

Q: How many people do you employ?

A: Just us for now.

Q: What is your business philosophy?

A: To make sure we offer the best smokes at an affordable price in a nice, clean environment, and in an ambiance that caters to smokers.

Q: When were you established?

A: Last week.

Q: What makes your business unique?

A: This machine rolls 200 smokes in eight minutes. There is no other machine that does that. And the quality of the tobacco. There are very little chemicals inside (the rolled smokes). The price (of the smokes makes the business unique), and the fact that the tobacco is locally grown.

Q: What changes do you expect for your company in coming years?

A: We're going to follow our business philosophy of offering the best products at the best prices available, with the service, and hopefully, reach more people, not just in the Rocky Mount area, but throughout the area, including Wilson and Zebulon. This is our first one."

Q: Q: Why did you choose Rocky Mount as a place to do business?

A: Both Adam and I own businesses here.

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EDITORIAL: BALLOT PROPOSALS OFFER STARK CONTRAST TO LEGISLATURE'S FOLLIES

Editorial by STLToday (MO)

May 14, 2012

And then there were four.

After a record 143 initiative petitions were submitted to the Missouri secretary of state this election cycle, only four remain with a chance to end up on the November ballot.

If each proposal is certified as having enough valid signatures and survives any last-minute legal hurdles, here's what Missouri voters will be asked to decide on Election Day:

- If control of the St. Louis Metropolitan Police Department should be returned to the city, taking it away from a state board that has existed since the Civil War.
- If payday loan interest rates should be capped at 36 percent. The predators who prey on the poor currently charge an average annual percentage rate closer to 400 percent.
- If Missouri's minimum wage should increase by \$1 to \$8.25 an hour.
- If Missouri's lowest-in-the-nation 17-cent tax on a pack of cigarettes should go to 90 cents, below the national average but enough to raise around \$400 million, much of which would be earmarked for education.

There are good reasons to support each initiative, and at various times we have urged lawmakers to pass similar legislation.

But our point today is not to rally support for initiatives that are not yet officially on the ballot, but to note the stark contrast between how strongly Missouri voters have spoken and how their elected officials are bumbling away what is left of this year's legislative session.

It's not easy to get an issue on the ballot. It takes in the neighborhood of 100,000 valid signatures of registered voters spread around the state's congressional districts to qualify for ballot access. Collecting them takes dedicated volunteers and a fair amount of campaign cash to pay signature gatherers.

And in the case of the group trying to rein in payday loan abuses, there was the not-so-minor matter of fighting through the intimidation of the deep-pocketed payday operators from out of state willing to spend millions to protect their Missouri cash cow.

Here's what all this means: While the Republican-controlled Legislature diddles away the state's future talking about the president's birth certificate, keeping gun owners safe from job discrimination that doesn't exist, fear-mongering at the expense of Muslims, handing out corporate tax credits while cutting funding for the blind, passing anti-worker bills and blaming teachers for society's ills, real Missourians are worried about their neighbors.

The local control issue would right a 151-year-old wrong. Two of the ballot proposals aim to help the working poor, people doing their best to contribute to the economy but barely scraping by. The tobacco tax would buttress education funding, both at the K-12 level and at colleges and universities, building a stronger workforce and making sure that students don't get clobbered every time tough budget decisions are made.

Each of these issues was brought to the Legislature and discarded. So the people are sending a message to their lawmakers: People matter. The middle class matters. The poor matter.

The Missouri's state flag bears a powerful motto: "Salus populi suprema lex esto."

"The welfare of the people shall be the supreme law."

In November, the people of Missouri can breathe life into that motto. And while they are the polls, they can choose legislators worthy of the people they serve. Back up the bus.

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TOUGH SELL FOR TOBACCO TAXES IN CALIFORNIA

By Kevin Yamamura
Sacramento Bee (CA)
May 14, 2012

In the past decade, red and blue states alike, from Mississippi to New York, have approved more than 100 tobacco tax hikes in a desperate hunt for budget revenue.

But not one has passed in California, whose 87-cent cigarette tax dropped from third-highest in the nation in 1999 to 33rd today despite the state's ongoing budget woes.

That confounds health advocates, who otherwise consider California to be a trailblazer when it comes to bans on smoking in bars and restaurants, and public campaigns urging tobacco users to quit.

But longtime state budget watchers are hardly surprised. They largely blame the state's supermajority requirement to pass tax hikes in the Legislature. That forces tobacco tax votes to the ballot, where industry can spend unlimited sums of money.

"Certainly the state has been looking in every place possible for new sources of revenues," said Mark Baldassare, president and CEO of the Public Policy Institute of California. "Most other places have a simple majority, and I think a two-thirds majority is a hurdle even for something seemingly as popular as a tobacco tax."

The June ballot has a tobacco tax hike, Proposition 29, that would raise \$735 million in its first full year, mostly for cancer and disease research. The Legislature could not tap the funds for 15 years, and even then not without meeting certain requirements.

The initiative has generated much of its support and opposition along predictable political lines, with Republicans and anti-tax groups opposed and Democrats and health organizations in support. Tobacco firms R.J. Reynolds and Philip Morris have contributed more than \$38 million against the measure.

An early PPIC poll showed 67 percent of likely voters in support in March, but backers believe it will ultimately be a close contest under the weight of heavy industry opposition.

Baldassare observed that support for tobacco taxes "fits the tax-the-other-person mentality."

The state Department of Public Health said last year that the adult smoking rate dropped to a record low of 11.9 percent, a precipitous decline from the 27.7 percent in 1985.

As Gov. Jerry Brown prepares to release a revised budget today reflecting a deficit that has ballooned to \$16 billion from the original \$9.2 billion estimate, Proposition 29 opponents have seized on a budgetary argument to make their case.

The No on 29 campaign states on its website, "Billions in New Taxes, but Nothing to Fix the State Budget." It also points out that funds would not go to schools, unlike other general fund revenues.

Proponents have dismissed the argument, saying it is beside the point and disingenuous coming from foes who oppose other state tax hikes for education.

"This measure is not going to solve the state budget crisis," said Jim Knox of the American Cancer Society. "It is not a cure for global warming. There are a lot of things it doesn't do. This measure is intended to raise the tobacco tax to protect kids from smoking."

Still, the budgetary argument has won sympathy in some unexpected places.

The Los Angeles Times editorial board opposed the initiative on grounds that cancer research is not a priority during the budget crisis, even though it praised the health benefits that could result from a \$1 per pack hike in cigarette taxes.

The left-leaning California Budget Project, which has not taken a position, concluded in a policy paper, "A key policy issue raised by Proposition 29 is whether it is desirable to dedicate hard-to-raise new revenues to a specific set of programs that would be 'locked in,' limiting the ability of the Legislature to make changes in response to shifting economic, budget and demographic trends."

Democrats and health advocates acknowledge the severity of the state's fiscal needs, but maintain that California probably will never pass a tobacco tax hike for general budget purposes. Given that political reality, they say, it is worth passing Proposition 29 because of the effects a tobacco tax hike would have on reducing consumption.

Sitting in his office last week, Senate President Pro Tem Darrell Steinberg, D-Sacramento, bemoaned the expectation that Brown will propose another round of cuts to education, health and welfare programs to deal with the state's growing deficit.

But he still supports Proposition 29, he said, because tobacco taxes are a non-starter in the Capitol, and he supports the idea of reducing smoking through higher taxes. He referred to the tax as "money we're not going to otherwise realize."

Knox said his group has asked lawmakers for a tobacco tax hike 33 times in the last 30 years and was successful only once – a 2-cent hike in 1993 for breast cancer programs. The last general fund tobacco tax hike came in 1967, a 7-cent increase authored by then-Sen. George Deukmejian, a Republican who later became governor.

"The Legislature has conclusively proven that it will not pass a tobacco tax for the general fund – or anything else," Knox said.

Senate Republican Leader Bob Huff, R-Diamond Bar, said last week that he thought the budget deficit could be as high as \$14 billion. But his caucus remains opposed to raising tobacco taxes to help balance the budget.

"What's the nexus?" Huff said. "It's tobacco taxes today, it's shovels tomorrow. You name it. We have an addiction to spending here in the state. The underlying problem here is not revenues."

Tobacco companies hold sway in the Capitol. They have been reliable supporters of the California Republican Party and its legislators, and have also donated to a handful of influential Democrats, records show.

Altria Group donated \$10,000 and R.J. Reynolds donated \$5,000 to the legal defense fund of Sen. Rod Wright, D-Inglewood, who chairs the Senate Governmental Organization Committee, which oversees tobacco-related bills.

Since the recession in 2008, nearly two dozen other states have raised tobacco taxes to help balance their books. A Public Policy Institute of California poll in March found that 63 percent of likely voters say they favor hiking tobacco taxes for that purpose.

Yet most of California's 87-cent excise tax on cigarettes goes for programs other than the state's general fund. The most recent tax hike, 1998's Proposition 10, devotes 50 cents per pack to First 5 early childhood development programs.

Political experts say voters will not support tax hikes that support the general fund because they do not trust lawmakers to spend the money. That leads to ballot initiatives that have a defined spending purpose outside the Legislature's reach and typically for a pet cause of the funder.

The leading backer of Proposition 29 is cyclist and cancer survivor Lance Armstrong's foundation, which advocates for cancer patients and research and gave \$1.5 million for the measure.

"You can't do a tax for the general fund on the ballot," said Lenny Goldberg, lobbyist for the left-leaning California Tax Reform Association. "Nobody will go out and argue for it. The other side of it is, the public in the polling we've seen will vote for a tax only if they know where it's going."

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U.S. SENATORS INTRODUCE LEGISLATION TO CLOSE TOBACCO-TAX LOOPHOLE

NACS Online
May 14, 2012

The bill alleges that tobacco companies are avoiding federal cigarette and roll-your-own (RYO) tobacco taxes.

Last week U.S. Senators Dick Durbin (D-IL), Frank Lautenberg (D-NJ) and Richard Blumenthal (D-CT) introduced the Tobacco Tax Equity Act, which seeks to close loopholes in the tax code that allow tobacco companies to avoid the federal cigarette and roll-your-own (RYO) tobacco tax.

“The current loopholes in the taxes on tobacco products encourage the use of products like pipe tobacco, smokeless tobacco, and ‘nicotine candies’ as a cheap source of tobacco, particularly among young people. This difference in tax rates doesn’t make sense, and we are already seeing tobacco manufacturers abusing them by changing the labels on their products to avoid paying the higher tax. This bill will stop tobacco manufacturers from gaming the system and protect more children and teens from this dangerous habit,” Durbin said in a statement.

“These loopholes are another egregious example of tobacco companies putting the bottom dollar over public health the well being of our children,” added Lautenberg. “This legislation will stop big tobacco from exploiting loopholes that cheat the government out of tax dollars. If companies won’t do what is right, then we will be working to pass this bill and close the loopholes.”

“Incredibly, the tobacco industry continues to seek profits by addicting children and avoiding taxes,” said Blumenthal, adding, “This bill equalizes the federal tax rate for all tobacco products to that of cigarettes. It will generate more than a billion dollars in revenue, and help prevent young people from beginning a deadly addiction.”

The senators say that the Tobacco Tax Equity Act would create “tax parity” by establishing the tax rate on all tobacco products at the same per unit level as cigarettes. Under current law, small cigars and RYO tobacco products are taxed at the same level as cigarettes; however, cigars, smokeless tobacco and pipe tobacco are taxed at a lower rate.

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SENATORS PUSH MEASURE TO CLOSE LOOSE TOBACCO TAX LOOPHOLE

Convenience Store News
May 11, 2012

Senators are pushing legislation to close a tax loophole that gives an advantage to loose pipe tobacco and retailers with roll-your-own (RYO) machines.

Yesterday, U.S. Sens. Dick Durbin (D-Ill.), Frank Lautenberg (D-N.J.) and Richard Blumenthal (D-Conn.) introduced the Tobacco Tax Equity Act to close loopholes in the tax code that allow tobacco companies to avoid the federal cigarette and RYO tobacco tax. Pipe tobacco is currently taxed at a lower rate than

cigarettes, leading some companies to offer the option of purchasing pipe tobacco and allowing customers to roll their own cigarettes to avoid paying the federal cigarette tax.

"The current loopholes in the taxes on tobacco products encourage the use of products like pipe tobacco, smokeless tobacco, and 'nicotine candies' as a cheap source of tobacco, particularly among young people," Durbin said in a statement. "This difference in tax rates doesn't make sense, and we are already seeing tobacco manufacturers abusing them by changing the labels on their products to avoid paying the higher tax. This bill will stop tobacco manufacturers from gaming the system and protect more children and teens from this dangerous habit."

RYO has grown in popularity as adult smokers face increasing cigarette excise taxes in many states as they continue to battle economic challenges.

Blumenthal added that this measure "equalizes the federal tax rate for all tobacco products to that of cigarettes" and is expected to generate more than \$1b billion in revenue.

The Tobacco Tax Equity Act would create tax parity by establishing the tax rate on all tobacco products at the same per unit level as cigarettes. Under current law, small cigars and RYO tobacco products are taxed at the same level as cigarettes; however, cigars, smokeless tobacco and pipe tobacco are taxed at a lower rate.

The tax disparity was a one of the four key points convenience store leaders brought to federal lawmakers at the NACS 2012 Day on Capitol Hill in March, as CSNews Online previously reported. According to NACS -- the Association for Convenience and Fuels Retailing -- background information, RYO cigarette tobacco has been taxed at \$24.78 per pound while RYO pipe tobacco has been taxed at \$2.83 per pound dating back to 2009.

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