

DAILY NEWS CLIPS

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AN UPDATE ON COMMERCIAL RYO MACHINE LEGISLATION

By Thomas A. Briant

CSP.net

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State legislatures continue to adopt bills that regulate commercial roll-your-own cigarette machines. So far during 2012, eleven states have enacted laws that range from licensing RYO retailers, to paying an equivalent tax that is assessed on traditionally manufactured cigarettes, to outright banning the operation of the commercial cigarette rolling machines.

The states that have enacted new laws this year include the following:

- Arkansas:** The new law that went into effect on January 1, 2012 prohibits the operation of commercial RYO machines in the state.
- Iowa:** This new law will go into effect on July 1, 2012 and requires RYO retail operators pay a per cigarette state tax, use only federal tax paid RYO tobacco that is listed on the state's directory of approved tobacco brands, maintain a secure meter on a RYO machine that will count the number of cigarettes dispensed by the machine, and restricts RYO machines to adult only facilities. The law also requires compliance with fire safe cigarette standards, but such compliance is delayed until January 1, 2014.
- Idaho:** Beginning July 1, 2012, the Idaho law requires that retailers have RYO machines annually certified by the state attorney general's office. The certification process includes a requirement that all tobacco used in the machine, regardless of how the tobacco is labeled, must be of a brand family that is listed on the state's directory of approved tobacco brands and all applicable state tobacco taxes must also be paid.
- Illinois:** As of August 1, 2012, RYO machine operators are required to pay the new cigarette tax rate of \$1.98 per 20 cigarettes with a credit for any OTP tax paid on the bulk tobacco used to make the cigarettes, to use only certified RYO tobacco that is listed on the state directory, to comply with federal and state labeling mandates for cigarettes, and provides that the attorney general will issue regulations for compliance with fire safe cigarette standards after January 1, 2014.

- Oklahoma:** On July 1, 2012, the use of RYO machines is prohibited in the state unless an operator obtains federal Alcohol, Tobacco Tax and Trade Bureau permit to operate as a cigarette manufacturer.
- South Dakota:** Effective July 1, 2012, RYO machine operators will be considered cigarette manufacturers under federal law and will need to comply with fire safe cigarette standards as of July 1, 2014.
- Tennessee:** The Tennessee law goes into effect on July 1, 2012 and requires a \$500.00 per machine registration fee and the use of tobacco listed on the state directory of approved tobacco brands, and mandates that prior notice be given to the state of any new machines to be purchased and operated. Then, effective October 1, 2013, the law will classify RYO operators as cigarette manufacturers and requires the collection of the state cigarette tax rate.
- Vermont:** As of July 1, 2012, commercial RYO machines will be banned in the state.
- Virginia:** Beginning July 1, 2012, commercial RYO machine operators will be considered cigarette manufacturers and, therefore, will need to comply with appropriate cigarette tax rates and other requirements of cigarette manufacturers.
- Washington:** The new law set to go into effect on July 1, 2012 will equalize the state excise tax on RYO cigarettes to the same \$3.025/pack on traditionally manufactured cigarettes, requires the use of cigarette tax stamps for RYO made products, and requires RYO stores to be licensed by the state.
- Wyoming:** As of July 1, 2012, the new law requires that any retail establishment possessing for operation a commercial "roll-your-own" tobacco machine will be classified as a cigarette manufacturer.

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TAX ROLL-YOUR-OWN CIGARETTES TO REMOVE SUSPICION

Hartford Courant Editorial
June 5, 2012

Lawmakers should plug the tax loophole and show they can't be bought

The federal investigation of contributions to the congressional campaign of state House Speaker Christopher G. Donovan brings up an issue that should have been made moot several weeks ago: roll-your-own cigarettes.

Mr. Donovan's campaign finance director was arrested last week on charges that he conspired to conceal the true donors of about \$20,000 in contributions. The funds supposedly were meant to

influence a vote on a bill imposing taxes and a hefty license fee on roll-your-own cigarettes. The cigarette issue was voted out of committee, but died in the just-ended session.

Under current statutes, tobacco shops with roll-your-own machines aren't subject to cigarette sales taxes. In these stores, a customer buys loose tobacco and paper and, using the shop's sophisticated machine, cranks out 200 professional-looking cigarettes in about 10 minutes, for about half the retail price of a prepackaged carton.

Because the customer purchases only raw materials, the state can't collect the \$34.20 tax normally applied to a carton of manufactured cigarettes. And the shops — there are 15 to 20 statewide — don't need a special manufacturing license. The net result: a loss to the state of at least \$3 million. The legislature should have voted to change that this spring.

Regardless, it's a reminder that the issue is still before us, and that even in these cash-strapped times, legislators don't always take advantage of equitable opportunities to raise much-needed funds.

Stores with roll-your-own machines are obviously involved in the manufacture of cigarettes, and ought to pay for that privilege. And customers who buy cigarettes should pay the cigarette tax.

No matter what eventually happens with the federal investigation, state lawmakers should plug the roll-your-own loophole and show voters they can't be bought.

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ROLL-YOUR-OWN SHOPS GAIN ATTENTION AFTER CAMPAIGN SCANDAL

By Laurie Rich Salerno

The Record-Journal (Meridian, CT)

June 6, 2012

Big Cat's Smoke Shops were David Catlin's retirement plan. The Berlin man opened the Bristol and Wallingford roll-your-own cigarette shops with his wife, Sharon, and another business partner, his second small business venture after a 33-year career in the ball bearing industry was cut short when his company, Torrington Co., was bought by an out-of-state firm.

"We tried to make a go of it in a small mom-and-pop lunch place," Catlin said Tuesday, but the restaurant, Kensington Cafe in Berlin, struggled. They took out a second mortgage before finally selling the restaurant and opening the smoke shops. "This was an opportunity, we hoped, to get ourselves out of all that."

But the future of that opportunity, like that of roll-your-own shops throughout the state, is now uncertain.

An FBI sting that resulted in the arrest of House Speaker Chris Donovan's congressional campaign finance director last week has turned a spotlight on planned legislation to make the roll-your-own shops

pay manufacturing fees and additional taxes. It had been uncertain whether it would be addressed in the June special session, but Gov. Dannel P. Malloy and some legislators say they plan to take up the issue.

In the sting, an FBI agent posed as an investor in a roll-your-own shop who proffered \$20,000 in contributions to Donovan's congressional campaign with the understanding that the speaker would kill a bill that would have reclassified roll-your-own shops as manufacturers. As manufacturers, the stores would be charged a \$5,250 license fee and a 2.82-cent-per-cigarette charge in addition to the 50 percent tax on tobacco they already pay.

Donovan has said he did not know about the contributions, and the bill, Senate Bill 357, died on the Senate floor before ever reaching the House.

Robert Braddock Jr., the finance director for Donovan's 5th Congressional District campaign, was accused of taking the funds, masking them, and promising the speaker's collaboration. Donovan fired Braddock, campaign manager Josh Nassi and another staffer after the arrest.

Roll-your-own shops say the added fees will significantly increase the cost of their wares, and could put them out of business. Some have been banding together over the last few months in an effort to defeat the legislation, talking to legislators.

Catlin said he and other shop owners have been loosely working with Tracey Scalzi, of Tracey's Smoke Shops in Norwalk and Orange, on efforts at the Capitol. Scalzi did not return phone calls to her Norwalk store Tuesday.

"She's been wonderful, she's really communicating well with us. We have above-board extensive efforts going on on our behalf," Catlin said. He said the newfound scrutiny of the industry makes it look deceitful, but the smoke shop owners are small business owners like him who are just trying to make a living in a poor economic climate.

"We calculate that there's about 140 employees in this business right now — this certainly wouldn't be fair to all of them," Catlin said.

Scalzi was named in a lawsuit brought by Attorney General George Jepson in August 2011 on behalf of the Department of Revenue Services. The suit claimed Scalzi and shops like hers were manufacturing cigarettes without paying the appropriate taxes, but a Superior Court judge ruled in February that the laws as written did not define the shop as a manufacturer. The ruling prompted the legislative proposal.

Catlin said he interpreted the ruling as a green light and secured the lease to the Wallingford store, his second, after the court verdict.

"There was no apparent law against us doing this ... once it was determined we weren't manufacturers. We didn't anticipate this going through the legislature," Catlin said. "It's not manufacturing. Now they're trying to impose a tax. That law wasn't there when we invested this money — if it were, we wouldn't have done this."

Since the news of the FBI sting, there has been no increase in customers despite the added publicity, Catlin said.

"It's been steady," he said of the Bristol site. "We have very established clientele there. Probably about 70 percent of our customers have shared with us that they were rolling at home. The rental of these machines has given them an alternate savings opportunity."

Wallingford's other roll-your-own shop owner, Kashif Akbar, of Wallingford Tobacco in Yale Plaza, said he hasn't followed the news, but he said the popularity of his machine is growing in just over a month since he purchased it.

"We will see what happens. For the time being it's picking up," Akbar said. He said he doesn't consider himself a manufacturer. "It's a big, big difference in commercial plants and this machine. They produce thousands of cigarettes per minute — this machine produces 200 cigs in 10 minutes. Plus, it's a self-service — no brand name, no packing involved."

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LETTER: CLOSE LOOPHOLE FOR SOME CIGARETTES

Letter to the Editor by Wes Carruthers, president, Tennessee Fuel and Convenience Store Association
Knoxville News Sentinel
June 5, 2012

I witness daily the effect roll-your-own cigarette manufacturing stores have on businesses. I am writing to bring this important issue to light as it affects law-abiding retailers not only in Tennessee, but from coast to coast.

Roll-your-own operators are able to sell cigarettes at an alarmingly low cost by dodging state and federal laws and regulations while exploiting a tax loophole. Tobacco shop owners that sell cigarette cartons made in cigarette rolling machines in Tennessee pay \$22.60 less in taxes and government fees per carton. What's happening here is clear: Retailers who own RYO machines advantageously mislabel their product as "pipe tobacco" to evade taxes.

There are approximately 70 RYO machines in Tennessee. With each machine evading state excise taxes, sales taxes and master settlement costs, this adds up to millions lost to the state. On a national level the amount of money being lost through this tax loophole is astronomical.

In closing this tax loophole, we can also ensure tobacco products are sold in a responsible manner. With a growing number of these RYO manufacturing retailers, it is a concern to our community that these cigarettes do not comply with fire safety standards or bear the U.S. Surgeon General warning labels.

Retailers who have carefully abided by the law for years are losing revenue to those who choose to ignore the law. They are also losing jobs. The Census Bureau found that Tennessee convenience stores saw a decrease in employees from 1998-2009. This will only be exacerbated by RYO operators and their unfair practices.

With a thorough understanding of what is at risk for small-business owners and retailers in Tennessee and across America, U.S. Rep. Diane Black has come up with an easy solution to this problem. By introducing House Resolution 4134, she will ensure no one is put at an unfair competitive disadvantage. H.R. 4134 closes this tax loophole, without raising taxes on any tobacco products.

Congress needs to protect our free and open market. I call upon fellow retailers and concerned citizens to urge their members of Congress to support this bill.

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CALIFORNIA VOTERS SPLIT ON \$1 PER PACK TOBACCO TAX

By Hannah Dreier
Associated Press
June 6, 2012

A California ballot initiative to raise the tax on cigarettes that pitted big-spending tobacco companies against cycling legend Lance Armstrong and the New York City Mayor was too close to call Tuesday night.

A blizzard of industry-financed radio and television advertisements over the last two months closed the gap on an effort to impose an additional \$1-per-pack tax on cigarettes to fund cancer research.

In March, a statewide poll suggested the measure would pass with two-thirds approval. But support slipped just below percent of the vote with more than 3 million ballots cast.

With millions of votes still to be counted, it could be days or longer before a winner is declared.

The attempt to hike taxes on cigarettes and other tobacco products became a national fight with tobacco companies pouring in millions to quash the effort and celebrities urging voters to support it.

Tobacco taxes have been proven to reduce smoking. But opponents said the initiative would create an unaccountable bureaucracy and hurt the economy by sending tax money raised in California to other states.

An extra tax in the nation's most populous state also could mean major losses for tobacco companies.

Both camps said Tuesday night that they had anticipated a close race and remained confident.

"It's going to be a long night, and that's what we expected," said Beth Miller, spokeswoman for the no on 29 campaign. "It's been a question of the voters taking a look and deciding that they really didn't want to support this measure, but it's also coupled with the fact that people generally do support cancer research."

Supporters promised the tax revenue would stay in California and said tobacco companies were inventing arguments to obscure their true motive -- safeguarding profits.

"We've been ahead all night and we expect to stay ahead," Jim Knox of the American Cancer Society said Tuesday. "I think the public health message has gotten through the smoke screen of the tobacco companies' nearly \$50 million misinformation campaign."

Armstrong and a coalition of anti-smoking groups raised about \$18 million to bolster the measure. New York City Mayor Michael Bloomberg gave \$500,000 to the campaign to help offset the industry donations.

The tax would generate about \$735 million a year, according to the independent legislative analyst's office.

Voters on both sides of the issue expressed strong convictions Tuesday.

"I think that we should aggressively discourage smoking -- make it less convenient, make it more expensive," said Susan Hyman, a Democrat who cast her ballot at a Long Beach polling station.

In nearby Glendale, Craig Jerpseth, a 43 year-old nurse, was equally certain about voting the measure down, along with anything or anyone who might mean more taxes.

"I hope we don't get any more taxes. That's pretty much it," he said.

A slew of newspapers, including the Los Angeles Times, have opposed the measure while proclaiming their reluctance to side with tobacco companies. They argue that the revenue should go to the state, which Gov. Jerry Brown announced last month now faces a deficit of \$16 billion.

With a smoking rate of 12.1 percent, California has not raised these taxes since 2000. If the measure passes, California would still have only the 16th highest tax rate in the nation.

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