

DAILY NEWS CLIPS

June 7, 2012

FEDERAL DEFINITIONS COULD SMOLDER ROLL-YOUR-OWN LEGISLATION

By David Haviland

KBKW News – Grays Harbor, Washington

June 6, 2012

As Washington's Revenue Department prepares to clamp down on about 60 Roll-Your-Own Tobacco stores statewide, proposed federal legislation could squash the loophole used by the rolling-machine stores across the nation.

Kelsy Tikka from U-Count Tobacco in Aberdeen has been watching two key bills "they're trying very carefully, to slip it through without anybody noticing, to get the wording of what a manufacturer is. [If] they change it federally, it will shut all these businesses down through the states."

The Secure Rural Schools amendment added to a U.S. Senate transportation bill would categorize retailers providing roll-your-own machines to customers as "mainstream cigarette manufacturers" for federal tax purposes.

If that doesn't make it, House Resolution 4134, would amend the definition of a tobacco manufacturer to include "any person who for commercial purposes makes available for consumer use a machine capable of producing tobacco products," HR4134 is in committee.

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ROLL-YOUR-OWN CIGARETTE PRICES RISE JULY 1

By David Haviland

KBKW News – Grays Harbor, Washington

June 6, 2012

Operators of roll-your-own cigarette stores will be making some changes next month, some stores might just close Kelsy Tikka from U-Count Tobacco in Aberdeen says "If it does go into effect we're going to try to operate, but we will loose business."

Tikka said a lawsuit is expected to be filed later this week seeking an injunction on the new legislation set to take effect July 1.

Under the new legislation, about 60 stores across Washington will begin stamping and taxing Roll-Your-Own (RYO) cigarettes more like regular cigarettes.

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LAFONTAINE OPPOSES ROLL YOUR OWN TOBACCO SHOPS AS CIGARETTE MANUFACTURERS

By Christy Arboscello

New Baltimore-Chesterfield Patch (MI)

June 6, 2012

The state representative, whose district includes New Baltimore and Chesterfield Township, says the Senate bill could damage small businesses.

State Rep. Andrea LaFontaine voted Tuesday against a bill that would change the Michigan tax code by categorizing Roll Your Own tobacco shops as cigarette manufacturers, according to a news release.

"Senate Bill 930 classifies any store with a cigarette rolling machine as a manufacturer of tobacco products," her office stated.

"This bill damages our small businesses by creating a regulatory structure that they are unable to exist under," LaFontaine, R-Columbus Township, stated. "One of my utmost priorities is to protect small businesses and job providers in the communities I represent, and therefore I vehemently opposed this bill."

The state representative's district also includes New Baltimore and Chesterfield Township.

Senate Bill 930 passed by a vote of 59 to 48 and will head back to Senate.

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DIVIDED HOUSE APPROVES 'ROLL YOUR OWN' CIGARETTE TAX BILL

Gongwer News (MI)

June 6, 2012

A bill to impose cigarette taxes on smokes rolled by in-store machines was approved by a divided House Tuesday, with a number of Republican members speaking out on the floor against the bill.

Rep. Tom McMillin (R-Rochester Hills) encouraged Democrats to oppose the bill with him, saying that "big tobacco" is the industry that is being aided by the bill.

The bill (SB 930) would define tobacco stores that use large roll-your-own machines as manufacturers and require that they collect the per-pack cigarette tax just as wholesalers do for prepackaged cigarettes.

Mr. McMillin and several of his colleagues said these retailers are not manufacturers, and should not be taxed as such.

Rep. Jeff Farrington (R-Utica) said the bill will put small companies out of business.

Jackson County's two Republican representatives, normally together on most issues, split on the bill.

Rep. Mike Shirkey (R-Clarklake) spoke from the floor in opposition.

"We are rolling our own small businesses," Mr. Shirkey said.

He said these businesses are not trying to avoid taxes. He also said there are businesses in the state where people can go in and add products and make their own beer, but those were left alone.

"This is a complete inconsistency in how we are applying the tax laws," Mr. Shirkey said.

Mr. Shirkey was followed by Rep. Earl Poleski (R-Jackson) who spoke in support of the bill. He said some of these businesses are doing it this way to avoid paying a tax on a finished cigarette product."

"I think that manufacturing cigarettes is what's going on here," he said. "I suggest that manufacturing is kind of like pornography, I know it when I see it."

The bill was approved 59-48. A number of Republicans voted in opposition and then shouted in jest to oppose the bill being given immediate effect, which drew some laughs from the other side of the aisle, given the months-long drama about immediate effect between minority Democrats and majority Republicans.

REPUBLICANS ROLL EACH OTHER OVER RYO BILLS

MIRS News (MI)

June 6, 2012

Legislation that taxes cigarettes created in a "roll your own" machine at tobacco stores passed the House today despite significant opposition from Republicans who believe the new tax will shut down dozens of stores.

Proponents of the bill say it will help curb alleged tax evasion in RYO shops (See "Roll Your Own: Tax Evasion or Small Biz?" 3/14/12).

The bill, which would classify businesses that let customers roll their own cigarettes as manufacturers, passed the Senate 36-2.

The bill passed the House today 59-48, with 38 Republicans and 10 Democrats voting against the bill.

Rep. Tom MCMILLIN (R-Rochester Hills) said the bill helps "big tobacco."

Rep. Jeff FARRINGTON (R-Utica) said the bill has a good portion, but it also has a bad portion that "does nothing but put small companies out of business."

He said he hopes the bill can be split down the road and see if each part will pass on its own merits.

Rep. Ed MCBROOM (R-Vulcan) also urged a no vote on the bill until it could be "significantly improved."

Rep. Earl POLESKI (R-Jackson) was the lone Republican to speak in support of the bill, saying he thinks RYO shops should be classified as manufacturers because the end result is a finished tobacco product.

"The business model that's going on is almost entirely predicated on the avoidance of the taxation of a finished tobacco product," he said. "I suggest that manufacturing is kind of like pornography: I know it when I see it."

Poleski's neighboring House member Rep. Mike SHIRKEY (R-Clark Lake) said RYO is in no way an evasion of the tax law. The shops merely provide a service, he said.

"I would suggest that in this particular case we are indeed rolling our own -- rolling our own small businesses," he said.

Immediate effect (IE) was ordered on a standing vote for the bill while several Republicans shouted "no," drawing some laughter from Democrats who are still fighting a battle on IE procedures in court.

SOURCES IDENTIFY SECOND CO-CONSPIRATOR IN DONOVAN CAMPAIGN PROBE

By Edmund H. Mahony, Jon Lender, and Dave Altimari
The Hartford Courant (CT)
June 6, 2012

A federal investigation of questionable campaign payments is pointing again to the Waterbury area – where a former employee of a smoke shop has been identified by sources as the alleged co-conspirator FBI agents suspect of helping to hide the source of thousands of dollars in cash that ended up in the 5th District congressional campaign of House Speaker Christopher Donovan.

The employee, Paul Rogers, declined to talk Tuesday night at his Middlebury home about the investigation that already has resulted in one arrest, or about his recent employment. He referred questions to his lawyer, Hugh Keefe of New Haven, who could not be reached for comment.

Rogers is, according to sources, the person the FBI identified last week as the second of three unidentified co-conspirators in a law enforcement affidavit used to support the arrest of Robert Braddock Jr., Donovan's now-fired campaign finance director. Rogers is referred to as CC-2 in the affidavit, the sources said.

Sources have previously identified former union official Ray Soucy as another alleged co-conspirator.

Braddock was charged, following an FBI sting, with conspiring to hide the source of \$20,000 or more in cash contributions, mostly to Democrat Donovan, that ostensibly came from investors in roll-your-own tobacco stores. It remains unclear from the affidavit if anyone opposed to the roll-your-own tax bill was trying to funnel money to Donovan's campaign or if the effort was an FBI sting operation from the start.

During the recent legislative session, tobacco businesses were fighting a proposed state law that would have imposed significant new taxes and fees on their businesses. Roll-your-own retailers require a substantial start-up investment. The machines that customers use to roll their own cigarettes cost \$40,000 to \$60,000, according to information from the state Department of Revenue Services.

Federal authorities, who have refused to discuss the investigation in the past, again declined Wednesday to discuss Rogers' position in their investigation.

Government legal filings in court and other sources indicate that the real source of the campaign money described in the affidavit was an undercover FBI agent masquerading as an investor in one or more roll-your-own stores.

Sources said the store Rogers worked at was Smoke House Tobacco on Watertown Avenue in Waterbury. It has two roll-your-own machines. An employee at the store who declined to identify himself said earlier this week that Rogers "no longer works here." There is no mention of Smoke House Tobacco or any other smoke shop in the affidavit.

An employee who answered the phone at a second Smoke House Tobacco roll your own store in Waterbury, on Meriden Road, said that Rogers no longer works for the business and "we have no further comment."

Federal prosecutors in their legal filings assert that the role in the conspiracy of CC-2, identified by sources as Rogers, was to recruit "conduit contributors" who helped Braddock and others launder thousands in contributions to Donovan's campaign by putting their names on checks for funds provided by someone else.

CC-2, according to the FBI, recruited three of the four conduit contributors who became involved in disguising the source of the first \$10,000 cash contribution.

According to the FBI affidavit, the FBI undercover agent provided the cash to a co-conspirator, CC-1, identified by sources as Soucy, a state employee at the Cheshire prison complex and labor union activist who supports Donovan.

CC-1 and CC-2, identified by sources as Soucy and Rogers, then recruited conduit contributors, each of whom took \$2,500 and, in turn, provided \$2,500 checks to Donovan's 5th District election campaign, the affidavit said. The document refers to them not by name, but as CC-1 and CC-2.

In the case of the one \$10,000 contribution examined in detail in the affidavit, CC-2 allegedly recruited three conduit contributors and CC-1 recruited one, the affidavit said. All the alleged conduit contributors live in the Waterbury area, The Courant has learned.

The FBI affidavit examines in detail two separate payments totaling \$10,000 each in April and May from the undercover agent to the campaign.

Soucy, of Naugatuck, has repeatedly declined to discuss the matter.

The affidavit asserts that it was CC-1, identified by sources as Soucy, who called the undercover agent in early April to report that he had arranged a meeting with Braddock and a third alleged co-conspirator, identified as CC-3.

The undercover agent said during the recorded telephone conversation that he was raising the cash payment from \$5,000 to \$10,000. The purpose of the call, according to the affidavit, was to hand CC-1 the cash so he could make arrangements to round up conduit contributors.

CC-1 and CC-2 then recruited four conduit contributors, the affidavit said. They obtained checks from the conduits and delivered them to Braddock and CC-3 at a restaurant in Southington on April 11, the affidavit said.

The affidavit describes a similar set of events in connection with a \$10,000 cash payment in May.

Only Braddock is identified by name in the FBI affidavit and federal authorities have refused to identify any of the other people they call co-conspirators in the contribution scheme. They are identified in the document as CC1, CC-2 and CC-3. The affidavit says that CC-3 was "an aide to the [Donovan] campaign" other than Braddock.

Donovan, who is not described in the affidavit as participating in the conspiracy, is identified as public official number 1. He denies any knowledge of the alleged improprieties.

In addition to firing Braddock, Donovan has also fired campaign manager Joshua Nassi and another campaign worker, Sara Waterfall, who worked in the finance office. All three have been unavailable for comment since federal authorities announced Braddock's arrest last week.

Donovan, although he is the convention-endorsed candidate for the party's nomination for the congressional seat, still faces an Aug. 14 primary for the nomination against Democratic challengers Elizabeth Esty and Dan Roberti.

Soucy has been on leave since April 29 from his job as a correctional industries supervisor at the Cheshire prison complex. April 29 was days after the affidavit says that Soucy – again, referred to as CC-1 – was confronted by the FBI about his activities, and was persuaded to cooperate by allowing federal agents to record his conversations with members of Donovan's campaign staff about further illegal campaign contributions.

Soucy's time off originally was a voluntary, paid personal leave, but on Tuesday he was placed on administrative leave – involuntary, but still with pay, according to union contract, Department of Correction spokesman Brian Garnett said on Wednesday. The administrative leave is indefinite in duration, pending completion of a personnel investigation into his conduct, Garnett said.

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GOVERNOR MALLOY COMES TO TOWN

By Tom Henry

Minuteman News Center (CT)

June 6, 2012

Gov. Dannel P. Malloy called on Saturday for state House speaker Chris Donovan to speak to the public “sooner rather than later” concerning the allegation by the U.S. Attorney’s Office that Donovan’s finance director sought to hide the source of \$10,000 in donations to his 5th District Congressional campaign.

Questioned by reporters following a fundraising breakfast about how the accusations against then-finance director Robert Braddock Jr. might affect Donovan’s Congressional campaign, Malloy smiled and said, “It can’t help.”

Connecticut Democrats last month endorsed Donovan for the 5th District Congressional seat. He faces a primary in August.

Malloy said Donovan was aware of his advice to make a public statement, which he offered soon after the allegations were made public Thursday. “Yesterday would have been a good time” for Donovan to have come forward, the governor said.

“We’re already behind ...” he said, his voice trailing off.

“He (Donovan) sent a representative out; that’s not good enough,” Malloy said. “These are very serious allegations about people around him.”

Donovan said Friday he will relinquish his role as state House speaker to Majority Leader Brendan Sharkey for the purposes of the upcoming special legislative session, but will remain in the office of speaker of the house, and on the campaign trail. On Sunday, Donovan held a press conference at which he answered some questions about the situation.

Tom Swan, Donovan’s newly named campaign manager, announced during a press conference that Donovan, a Democratic candidate for the 5th Congressional District, had retained a lawyer and was cooperating with an FBI investigation into allegations of campaign funding irregularities.

The U.S. Attorney’s Office is alleging that Robert Braddock Jr., then Donovan’s finance director, sought to hide the source of \$10,000 in campaign donations, in the hopes that a piece of legislation, designed to tax roll-your-own cigarette shops with rolling machines, be stalled.

Josh Nassi, Donovan’s former campaign manager, was let go along with Braddock. Nassi has not been charged.

“Chris did nothing wrong,” Swan said during a Press conference Friday. “If I thought for a second there was a question about that I wouldn’t be standing here today.”

“He will not be stepping down as speaker,” Swan said.

In addition, Swan said the campaign has employed Stan Twardy, a former U.S. attorney, to conduct an internal review, the results of which would be handed over to the current U.S. Attorney's office, and that any "ill-gotten" funds identified in that review would be given to the Citizens' Election Fund.

State Attorney General George Jepsen, who was also a guest at Saturday's breakfast, said in a statement after the allegations first emerged, "I am deeply troubled by the allegations in the arrest warrant affidavit that conduit contributions to Speaker Donovan's congressional campaign were made with the intent to directly influence legislation. As the investigation unfolds, he will need to guide his actions by what is best for the people of Connecticut, even should that come at the expense of his congressional campaign or his tenure as house speaker."

Malloy called the allegations "despicable" in a statement Thursday.

"While I am encouraged that the speaker is cooperating with the investigation, his position requires that he give our residents a full explanation of what he knows."

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<http://minutemannewscenter.com/articles/2012/06/06/fairfield/news/doc4fcf86f7c03cd779596637.txt?viewmode=fullstory>

CALIFORNIA VOTERS REJECT RAISING TOBACCO TAX

By Jim Christie

Reuters

June 7, 2012

California voters narrowly rejected a ballot measure that would have added a \$1 tax to a pack of cigarettes in the state's primary election Tuesday, an outcome observers attributed to a \$47 million ad blitz by the tobacco industry.

The measure, known as Proposition 29, was defeated 50.8 percent to 49.2 percent on a day of light voter turnout, according to election results posted on Wednesday by California's secretary of state. Some absentee and other ballots remained to be counted.

The result reflected a long-standing political divide in California, with San Francisco Bay area counties heavily supporting the measure, while conservative suburban counties in more populous Southern California overwhelmingly opposed it.

Revenue from the proposed tax, estimated at \$735 million in its first year, would have supported medical research on tobacco-related diseases and programs to prevent and control tobacco use.

The measure, championed, among others, by the American Cancer Society and cycling great and cancer survivor Lance Armstrong, had enjoyed a commanding lead in polls earlier in the year.

But opponents, led by Altria's Philip Morris and Reynolds American Inc, vastly outspent their rivals, blanketing the airwaves in much of the state in recent weeks with a message that cast doubt on how the new tax revenues would be spent.

The result mimicked a 2006 effort at increasing tobacco taxes, which voters also rejected after a fierce industry-sponsored ad campaign.

California voters last approved a measure to increase the state's tobacco tax in 1998. It narrowly passed.

Measure Overwhelmed by Ads

Support for Proposition 29 was hampered by concerns that revenue from the tax would not go to public services, such as schools and policing, which have had their budgets slashed, said Mark DiCamillo, director of The Field Poll, which tracks California's public policy and political issues.

DiCamillo added that older, more conservative voters opposed to the measure likely had an outsized influence in an election marked by low turnout.

According to California's secretary of state, only 24 percent of registered voters cast ballots on Tuesday. That figure will increase as counties finish counting outstanding ballots.

Democratic Governor Jerry Brown unveiled a revised state budget plan last month that projected a \$15.7 billion deficit. He proposed closing it with spending cuts to healthcare for the poor and elderly, savings from reduced work hours for state employees and new revenue from tax increases he plans to put to voters in a ballot measure in November.

If voters reject Brown's proposal - it would raise the state sales tax and income tax rates for wealthy taxpayers - he has said an additional \$6 billion in spending, including \$5.5 billion on schools and community colleges, would need to be cut later this year.

"This measure (Proposition 29) wasn't going to do anything to fix that," said Joel Fox, president of the Small Business Action Committee and a member of the coalition that opposed it. "It creates another walled-off account the governor and the legislature can't get to in difficult times."

The money poured into California to broadcast that message and others - including claims that revenue raised by the measure could be spent outside the state - overwhelmed supporters of Proposition 29, said Stanton Glantz, director of the Center for Tobacco Control Research and Education at the University of California, San Francisco.

The medical school's foundation contributed \$50,000 to the campaign in favor of Proposition 29, according to MapLight, a nonpartisan research group.

The measure's opponents "basically went unanswered for a very long time," Glantz said, adding that supporters failed to raise sufficient funds early for a sustained offensive to offset the deep pockets of the tobacco industry.

The two sides raised over \$59 million for the campaign, with proponents raising over \$12 million of that, according to MapLight.

"Had the health groups had a little more money a little bit earlier, they probably would have prevailed," said Glantz, who noted that there was a slim chance that vote-by-mail, provisional and damaged ballots that have yet to be processed could give Proposition 29 a victory.

The margin of victory was 63,000 votes out of 3.85 million votes cast.

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TOBACCO MONEY CONTRIBUTED TO LIKELY DEFEAT OF CALIFORNIA TOBACCO TAX

By Richard Craver

Winston-Salem Journal (NC)

June 6, 2012

It appears — once again — that an aggressive marketing campaign by the two largest U.S. tobacco manufacturers has helped defeat a cigarette excise-tax increase in California.

With 100 percent of the precincts reporting Wednesday, Proposition 29 trailed by a 51 percent to 49 percent margin, or by 63,176 votes out of the 3.85 million cast, according to The Associated Press.

But with more than 1 million vote-by-mail and provisional ballots still uncounted, it could be days or longer before a winner is officially declared.

David Howard, a R.J. Reynolds Tobacco Co. spokesman, said the company was "pleased that California voters recognized that this ballot initiative was flawed. All indications were that it was going to be close, and that certainly was the case."

But the Yes on 29 campaign said "sponsors and supporters of Prop 29 were not conceding defeat."

"Prop 29 is and has always been about saving lives and fighting tobacco-related diseases. With less than 1 percent separating defeat from victory, we remain vigilant and ever-hopeful, no matter how long the odds."

Passage of the proposition would raise the state's excise tax on cigarettes by \$1, making it \$1.87 per pack.

Because Californians are responsible for about 6.6 percent of the U.S. cigarette and snuff volume consumption, analysts said the effect on the manufacturers' bottom lines would be comparable to a 7-cent cigarette tax increase nationwide.

Christopher Growe, an analyst with Stifel Nicolaus, said that "while other excise-tax proposals are likely and possible, none are as threatening as California" because the industry is trying to offset lower demand with higher prices.

Proponents of the California Cancer Research Act say the tax would raise \$735 million annually for health-care research focused on cancer and tobacco-related diseases, including heart disease, and spending on smoking-cessation initiatives.

According to campaign filings with the California Secretary of State office, Reynolds and its affiliates spent \$14.1 million on advertising, while Philip Morris USA and its affiliates spent \$31 million.

By comparison, supporters of Proposition 29 spent \$18 million, including contributions highlighted by acclaimed cyclist and cancer survivor Lance Armstrong and Michael Bloomberg, mayor of New York City.

"The tobacco industry was instrumental in fighting against this excise tax increase on the ballot," Growe said.

Beth Miller, a spokeswoman for the No on 29 opponent group, said voters responded to their message that the proposition would create "an unaccountable bureaucracy dominated by political appointees."

"It lacks proper accountability and oversight of a new government agency to run cancer research," Miller said. "Voters know a ballot-box boondoggle when they see it."

Increasing cigarette taxes is "still the most effective way for many states to improve public health and increase tax revenue," said Bill Godshall, executive director of SmokeFree Pennsylvania.

The last try at a tax increase in California failed in November 2006 by a 52 percent to 48 percent margin. At that time, proponents wanted to raise the excise tax by \$2.60 a pack.

Reynolds and Philip Morris, along with committees connected to the manufacturers, spent about \$65 million on advertising to defeat the 2006 measure. Supporters spent \$13 million.

John Dinan, an associate professor of political science at Wake Forest University, said studies have shown spending a lot of money to oppose a ballot proposition or referendum is more effective than spending a lot of money to support passage.

"In recent years, we have seen some tax increases pass as ballot measures, which means voters are not completely opposed to raising certain taxes," Dinan said. "The rejection of this measure in California was not easily predictable and, obviously, could well have gone the other way."

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