

DAILY NEWS CLIPS

June 26, 2012

JUDGE BLOCKS ROLL-YOUR-OWN CIGARETTE TAXES

By Mike Baker
Associated Press
June 25, 2012

*****This AP story was picked up by several publications across Washington, Oregon, and Idaho.***

A Washington judge blocked the collection of taxes on roll-your-own cigarettes Monday, citing a voter-approved initiative that makes it harder for lawmakers to raise taxes.

Franklin County Superior Court Judge Bruce Spanner granted a request for a preliminary injunction, said Department of Revenue spokesman Mike Gowrylow. He said Spanner considered the upcoming tax in violation of a voter-approved initiative requiring two-thirds of lawmakers to support tax increases.

The Legislature voted earlier this year to force roll-your-own cigarette stores to collect the state's 15-cents-per-cigarette tax, with lawmakers arguing that they were simply enforcing an existing tax and saying that the stores were exploiting a loophole to avoid taxes. Dozens of roll-your-own cigarette stores have appeared recently in Washington, selling cigarettes at less than half the price offered by most retailers.

The tax change was set to raise some \$12 million over the next year to help balance the state budget. Two-thirds of state House members approved the law change, but only 27 of the state's 49 senators approved the change.

Opponents said it would undermine 65 stores employing 250 people across the state. The lawsuit in Franklin County was filed by a consumer, a tobacco retailer and a company that supplies roll-your-own machines.

"It is gratifying to see that the Washington courts have stepped in to protect the constitutional rights of small business owners and customers," said Chris Weiss, lead attorney for RYO Machine, in a statement.

Roll-your-own stores were supposed to start collecting taxes July 1. State officials are exploring whether to appeal the decision.

Originally published here:

http://seattletimes.nwsources.com/html/localnews/2018528577_rollyourown26.html

ROLL-YOUR-OWN GETS PRELIMINARY INJUNCTION AGAINST THE STATE OF WASHINGTON

By David Haviland

KBKW News – Grays Harbor, Washington

June 25, 2012

Today, the plaintiffs in the Roll-Your-Own tobacco lawsuit against the State of Washington announced that Judge Bruce A. Spanner of Franklin County has granted their request for a preliminary injunction to delay the scheduled July 1 implementation date of HB 2565, in wake of their recent lawsuit. This will prevent enforcement of the proposed new taxes during the legal challenges.

“We are very pleased that Judge Spanner has granted our request for an injunction while our legal challenges are heard in court,” said Phil Accordino, CEO of RYO Machine. “We look forward to making our case that HB 2565 is an invalid piece of legislation because it violates Initiative 1053, which would have required a 2/3 vote from both houses of the state legislature in order to raise taxes on our small, independent tobacco stores across the state.”

Chris Weiss, lead attorney for RYO from Stoel Rives, said, “It is gratifying to see that the Washington courts have stepped in to protect the constitutional rights of small business owners and customers.” He added, “While this case is very important to the RYO tobacco industry, it has a far reaching effect on all Washingtonians. Judge Spanner made a hard decision, and I believe the right decision.”

Filed in Franklin County, the plaintiffs are Dana Henne, a consumer and Franklin County resident; 1/2 Price Smokes, Inc., an independent tobacco retailer in Benton County; and RYO Machine, LLC.

There are currently 65 small, independent RYO tobacco stores that employ approximately 250 individuals across the State of Washington. The RYO Coalition of Washington supports the efforts of the plaintiffs in this case to promote small businesses and their employees throughout the state.

Originally published here: <http://kbkw.com/modules/news/article.php?storyid=4286>

FRANKLIN COUNTY JUDGE OVERRULES OLYMPIA ON CIGARETTE TAX

By John Trumbo

The News Tribune (WA)

June 26, 2012

Roll-your-own cigarettes won't be hit with a 15-cent tax in Washington when the new law takes effect Sunday, ruled Franklin County Superior Court Judge Bruce Spanner.

The judge granted a preliminary injunction Monday after a hearing in Pasco where plaintiffs claimed the tax violated state law.

Spanner disagreed with state attorney David Hankins, who argued that the court had no right to question why the new tax didn't have two-thirds approval of the Legislature.

The injunction will take effect when a \$200,000 bond or security is posted, Spanner said.

Seattle attorney Chris Weiss said he expects the security will be posted before July. Weiss represents Dana Henne of Pasco, a roll-your-own cigarette consumer; Gary Alexander of Sammamish, who owns 1/2 Price Smokes stores in Tacoma and Kennewick; and RYO Machine LLC.

Spanner considered the tax a violation of Initiative 1023, which was approved by voters in 2010 requiring a two-thirds majority of the Legislature for tax increases.

The roll-your-own taxing bill, House Bill 2565, passed in the House, but the Senate did not pass it by a two-thirds majority. Gov. Chris Gregoire signed the bill into law anyway. The bill was supposed to close a loophole that gives roll-your-own cigarette buyers smokes at about half the cost of prepacked cigarettes from other retail stores.

Weiss said the judge made a hard but right decision, and he expects the state to appeal Spanner's decision, possibly in connection with a high court appeal on the constitutionality of Initiative 1023. He said the injunction will remain until the legal challenges to the new law are resolved.

Spanner said he initially planned to call for a security deposit of \$12 million, which would be about one year's worth of tax revenue on roll-your-own cigarettes in the state, but Weiss' arguments convinced him to cut it by \$11.8 million.

Weiss said the new tax threatens the roll-your-own businesses, which have a niche market because of the existing cigarette tax.

Weiss noted that HB2565 was in response to the Department of Revenue's position that it did not have the authority to tax roll-your-own cigarettes under the existing law.

Hankins argued it wasn't a new tax because the tax rate on cigarettes remains the same, and that prepackaged and roll-your-own cigarettes look the same. He held up examples to show the court.

Hankins said the judge had no authority to examine the procedures of the Legislature in approving the cigarette tax, even if it was a work-around on the two-thirds majority requirement.

"You're telling me a court in this state has no right to look into whether the Legislature followed the law?" Spanner asked.

"Yes, if it is a procedural issue," Hankins replied.

Weiss said the governor's strong support for the tax did not give her "the right to override 1053."

Spanner said he has the right to scrutinize what the Legislature has signed off on.

"It's what we're doing here," the judge said.

Originally published here: <http://www.thenewstribune.com/2012/06/26/2194330/franklin-county-judge-overrules.html#storylink=cpy>

JUDGE GRANTS INJUNCTION BLOCKING NEW TAX ON RYO SMOKE SHOPS

Kitsap Peninsula Business Journal (WA)

June 26, 2012

A Franklin County Superior Court judge has agreed to a preliminary injunction request from plaintiffs who filed a lawsuit against the state over a law that would impose new taxes on tobacco shops where customers roll their own cigarettes in bulk.

Judge Bruce A. Spanner indicated at Monday's preliminary hearing in Pasco that he regards House Bill 2565 - which the Legislature passed earlier this year — as being subject to the two-thirds approval for tax increases as required by voter-approved Initiative 1053, according to plaintiffs' attorney Chris Weiss of Seattle.

The lawsuit was filed against the state, the Department of Revenue and the Liquor Control Board to challenge HB 2565, which was passed with two-thirds approval in the House but not in the state Senate.

The plaintiffs are Dana Henne of Franklin County; 1/2 Price Smokes, Inc., an independent tobacco retailer in Benton County; and RYO Machine, LLC, a company that makes bulk cigarette-rolling machines. The plaintiffs are required to post a \$200,000 bond for the injunction to be issued, Weiss said.

The law was scheduled to go into effect July 1.

There are currently 65 small, independent RYO tobacco stores — including stores in Bremerton, Silverdale and Port Orchard — that employ approximately 250 individuals across the state of Washington. The RYO Coalition of Washington supports the efforts of the plaintiffs in this case to promote small businesses and their employees throughout the state.

Originally published here: http://kpbj.com/business_daily/2012-06-26/judge_grants_injunction_blocking_new_tax_on_ryo_smoke_shops

JUDGE BLOCKS TAX ON ROLL YOUR OWN CIGARETTES

By Jerry Cornfield

The Herald (WA)

June 25, 2012

A Franklin County Superior Court judge today said the state cannot impose an additional tax on cheaper smokes known as roll-your-own cigarettes.

In an oral ruling, Superior Court Judge Bruce Spanner issued a preliminary injunction preventing the state from collecting the tax July 1 as planned. Spanner said under voter-approved Initiative 1053, lawmakers needed at least a two-thirds majority to approve the tax and failed to obtain it.

The state estimated the tax would bring in about \$137,000 a day.

In April, as part of the final agreement to balance the budget, a bipartisan majority of lawmakers passed House Bill 2565 requiring operators of roll-your-own stores to collect a tax on cigarettes produced by cigarette-making machines. Supporters said the bill would ensure those rolling their own cigarettes paid the same amount of tax as those who buy pre-packaged smokes.

The House passed the bill on a 66-32 vote which met the two-thirds requirement. However, the Senate vote of 27-19 approving the measure was less than two-thirds of that chamber.

Joe Baba, owner of Tobacco Joes roll-your-own store in Everett, fought passage of the bill and considered filing his own lawsuit against the tax. He was in the court room when Spanner issued his decision.

"I'm elated," Baba began, "that the judge ruled in our favor supporting small businesses and allowing our stores to stay open and offer customers the ability to make their own smokes without new taxes and government interference."

The lawsuit was filed against the state Department of Revenue by the owner of a roll your own store and one of their customers. The Attorney General's Office is defending the state agency.

State officials said late Monday they are evaluating whether to seek a stay of the injunction and appeal the decision.

"The judge believes that the Legislature would have had to comply with the two-thirds majority requirement for tax increases in order to enforce and collect taxes from "roll your own" cigarette machines. We argue that the cigarette machine legislation did not impose a new tax but rather provided a new method of collecting an existing cigarette tax previously uncollected because the state lacked an effective means of collecting it," said AG spokesman Dan Sytman.

Originally published here: <http://heraldnet.com/article/20120625/BLOG13/120629936/-1/NEWS01>

RULING MADE IN ROLL YOUR OWN CIGARETTES LAWSUIT

By Bryant Maddrick

KNDO TV – NBC Washington

June 25, 2012

Roll your own cigarettes will remain cheaper for now, thanks to a ruling in Franklin County Civil Court Monday afternoon.

The ruling gives roll your own tobacco shops a victory to protect themselves from higher taxes imposed by the state legislature.

Judge Bruce Spanner ruled that the new taxes cannot be forced on stores like the half price smokes shop in Kennewick.

The lawsuit argued the new taxes violate initiative 1053 which requires a two thirds majority vote in the state legislature for any tax increase.

And judge Spanner agreed, "We've been able to protect the jobs that are in place, that's beneficial to the local community and it's based on our constitutional framework in this state," explains Chris Weiss, attorney for the defendants in the case.

Half price smokes employs 18 people, and the store's owner plans on hiring another 7 or 8 employees and opening another store in Pasco.

The judge instituted a temporary restraining order that would protect this afternoon's ruling. The defense expects the state to appeal.

Originally published here: <http://www.kndo.com/story/18877425/ruling-made-in-roll-your-cigarettes-lawsuit>

ARE LAWS BINDING ON THE LEGISLATURE?

By Jason Mercier, Director, Center for Government Reform, Washington Policy Center
Washington Policy Center
June 25, 2012

Based on a state brief in the roll-your-own cigarette "tax" lawsuit being heard today at 2 p.m. in Franklin County, lawmakers may be able to ignore a law without first repealing it by passing a new law. It looks like this means that even if the Supreme Court were to eventually settle the constitutionality of the supermajority requirement for tax increases, if a future Legislature were to pass a tax increase in violation of that law without first repealing it, such action would appear to be deemed appropriate by the Attorney General's Office. This novel argument epitomizes the need for the people to be provided the opportunity to vote on constitutional supermajority vote requirements for tax increases.

Consider the following argument from the state's brief (emphasis added)

“Even if this Court were to conclude that the Cigarette Machine Legislation raises taxes for purposes of RCW 43.135.034, the statutory two-thirds vote requirement cannot, by itself, invalidate the Cigarette Machine Legislation. The Washington Supreme Court has explained that one enactment, even an enactment by initiative, cannot bind future legislatures. *Wash. State Farm Bureau Fed’n v. Gregoire*, 162 Wn.2d 284, 174 P.3d 1142 (2007). In *Farm Bureau*, the plaintiffs argued that a bill enacted by the 2005 Legislature exceeded the fiscal year expenditure limit established under the terms of Initiative 601 and therefore was invalid until it complied with a voter approval requirement adopted in the initiative. *Id.*

The Court upheld the legislation, reasoning that it is a fundamental principle of our system of government that each duly elected legislature is fully vested with the plenary power to enact laws, except as limited by our state and federal constitutions. *Farm Bureau*, 162 Wn.2d at 290. “No legislature

can enact a statute that prevents a future legislature from exercising its law-making power. . . . To reason otherwise would elevate enactments of prior legislatures to constitutional status and reduce the current Legislature to a second-class representative of the people.” Id. These principles are likewise true for initiatives because when the people pass an initiative, they are exercising a legislative power that is coextensive with the Legislature’s. Id. “A law passed by initiative is no less a law than one enacted by the Legislature. Nor is it more. A previously passed initiative can no more bind a current legislature than a previously enacted statute.” Id. at 290-91 (footnotes omitted).

The Court’s holding in Farm Bureau was explicit: a prior statute (whether enacted by the Legislature or by initiative) cannot prospectively invalidate a later statute. Therefore, RCW 43.135.034 cannot itself prospectively invalidate the Cigarette Machine Legislation.”

While the rest of us were under the impression that the Legislature must first amend or repeal an old law before undertaking a new policy strategy, the Attorney General's Office appears to be arguing that another option is for lawmakers to simply ignore existing law and put a new one on the books.

The implication of the brief appears to indicate that if the Supreme Court upholds the constitutionality of the supermajority requirement for tax increases and a future Legislature ignores the law, the Attorney General's Office will defend the Legislature's tax increase.

Speaking of the Supreme Court and the King County Superior Court ruling from earlier this year:

“The State is seeking direct review by the Washington Supreme Court and has filed a motion seeking a stay of the superior court ruling. The Supreme Court Commissioner denied the State’s motion for a stay but referred the motion to the full Court which will consider the motion on July 11.”

Here are the other arguments the state makes in defense of the roll-your-own cigarette "tax":

“In sum, plaintiffs are not likely to prevail for all of the following reasons as a matter of law: (1) RCW 82.32.150 requires an assessment before plaintiffs can challenge a tax statute in superior court even if they make constitutional arguments, (2) the cigarette tax is already due from consumers possessing, handling, or consuming any unstamped cigarettes in Washington, and therefore the Cigarette Machine Legislation does not raise taxes, (3) the enrolled bill doctrine prevents this Court from invalidating a statute based on perceived procedural error, (4) RCW 43.135.034 cannot itself invalidate the Cigarette Machine Legislation, and (5) the legislation does not violate the Washington Constitution. If the Court finds plaintiffs are not likely to prevail for any one of these reasons, it must decline grant the preliminary injunction.”

Originally published here: <http://www.washingtonpolicy.org/blog/post/are-laws-binding-legislature>

RYO INDUSTRY PREVAILS IN NEW YORK TAX FIGHT

NACS Online

June 26, 2012

Former U.S. Senator Alfonse D’Amato’s firm takes credit for defeating a state Senate bill that sought to tax loose tobacco the same as cigarettes.

A New York bill that sought to tax loose tobacco rolled in stores the same as cigarettes died in a state Senate committee last week, the Wall Street Journal reports.

The bill had already passed the state's Assembly and received the support of Governor Cuomo, cigarette manufacturers, and the American Cancer Society — a potent alliance that some speculate was defeated by the work of a skillful lobbyist.

"It's impossible for us to know everything that happened, but apparently one company with a \$10,000-a-month lobbyist was able to block a bill that would stop tax evasion, prevent residential fires and encourage smokers to quit," said Russ Sciandra, state director of advocacy for the American Cancer Society.

According to the WSJ, that lobbyist was former U.S. Senator Alfonse D'Amato (R-NY), whose firm, D'Amato's Park Strategies was hired by RYO Filling Station, aka Roll Your Own Machine — at a fee of \$10,000 a month.

While the Senate defeat is a win for RYO, the company is not at ease as the bill might resurface in a November session. "We're breathing a little easier but by no means is the fight over," said Bea Gonzalez, spokeswoman for the RYO company.

This year, more than two dozen states have introduced legislation to reclassify stores that offer RYO facilities as manufacturers, thus leveling the products' taxes with cigarettes.

The disparity is significant in New York: RYO cigarettes in some cases cost less than \$38 per carton, versus \$125 in New York City. As such, it has fueled a stiff fight from the tobacco industry.

"This is a very significant growing subset of the industry," said David Sutton, senior manager of media affairs at Altria Client Services, parent company for Philip Morris USA.

"This is clearly a loophole that's being exploited," he said.

Originally published here: <http://www.nacsonline.com/NACS/News/Daily/Pages/ND0626122.aspx>

SOUND OFF FOR TUESDAY, JUNE 26, 2012

Morning Sun (MI)

June 26, 2012

To the Shepherd person demeaning Ed's column, which I love, it doesn't sound like you want presently retired folks to prosper after they've worked their entire lives? You sound intelligent, but how did you get all of these stupid thoughts in your head? Your conservative group is making the American dream more like the American nightmare.

St. Louis

Let me see if I have this straight. We can give semi-automatic weapons to violent drug cartels in Mexico, but if we want to pour some water down the nose of a terrorist who beheads people, that is no good?

Mt. Pleasant

I called last week about the beautiful memorial to Vietnam vets on Isabella Road, and for some reason you chose not to publish it. Shame on you. I think the public should be made aware of it. There was a lot of work put into it, and it's well worth seeing.

Mt. Pleasant

(We certainly wouldn't have skipped that one on purpose. If you want to call again with location, we'll get it in. -Ed.)

Is there any way you could publish a little easier crossword puzzle each day? I love crossword puzzles; that's one reason I get your paper. I have a master's degree, but honest-to-Pete, these puzzles are way too hard except maybe for Monday or Tuesday.

Mt. Pleasant

I've called numerous times about the business...

Mt. Pleasant

(We will not get into isolated disputes between individuals and businesses. -Ed.)

Banning roll-your-own cigarette machines in Michigan is a shame and a loss for smoker and non-smokers. It seems the politicians who were elected to move Michigan forward are again moving us backward. These small businesses have paid taxes, created jobs and helped the poor and elderly. Little by little our politicians are taking away the rights of smokers and convinced non-smokers that it's a good thing.

Mt. Pleasant

(Actually, in the bigger picture, it probably is a good thing. -Ed.)

Isn't that ironical. They say being gay is against God, but it's OK for priests to molest little children?

Originally published here:

<http://www.themorningsun.com/article/20120625/OPINION04/120629816/sound-off-for-tuesday-june-26-2012->

ILLINOIS RAISES CIGARETTE TAXES TO EASE MEDICAID COST STRAIN

By Loren Heal
Heartlander (IL)
June 26, 2012

The Illinois legislature sent Gov. Pat Quinn a Medicaid reform and tax package that falls short of his stated goals and raises cigarette taxes to help address a \$2.7 billion Medicaid shortfall.

The legislative package sent to the governor on June 7 would cut \$1.6 billion from several state programs, increase cigarette taxes by \$1 per pack, curtail the practice of pushing back Medicaid bills from one year to the next, and implement the Medicaid expansion mandated under President Obama's health care law for about 250,000 people in Cook County.

The legislation would preserve the amount of federal matching funds Illinois receives for spending on Medicaid, says Jonathan Ingram, a health care policy analyst at the Illinois Policy Institute.

“Lawmakers promised to reduce Medicaid expenditures by \$2.7 billion. They fell far short of this mark, opting instead for higher taxes and more spending. By keeping Medicaid spending at unaffordable levels, they've endorsed a plan that would make the repeal or sunset of last year's historic income tax hike all but impossible.”

Short-Term Patch

State Sen. Kirk Dillard (R-Burr Ridge) said the cigarette tax won't solve Illinois's long-term funding problem.

“There are two problems with a cigarette tax to feed the Medicaid beast. The first is that a tax on cigarettes is a regressive tax, and second, we just drive our sales tax revenues to surrounding states,” Dillard said.

Ingram agrees.

“Research conducted by the Mackinac Center for Public Policy found the proposal to hike cigarette taxes by \$1 per pack would quadruple the rate of tobacco smuggling. While it would raise revenues, our estimates indicate smuggling alone would limit the take to about \$250 million,” Ingram said. “When tobacco tax revenues fall short, as they typically do, other taxpayers will be on the hook for the shortfall. That's why 70 percent of tobacco tax hikes are followed by other tax hikes within two years.”

'The Easy Way Out'

Dillard says the legislation would “overload an already-broken system with hundreds of thousands of new people as part of an overall ‘reform package’ that will hurt taxpayers at a time of record government spending, deficits and debt.”

“You don't get at the real problem, which is the structural imbalance in Medicaid spending. We need to make real, tough cuts in Medicaid eligibility, and make sure we spend our money more wisely, rather than just throw more money at it,” Dillard said. “The cigarette tax was the easy way out, and does not help us two and three years down the road, because we still have not made all of the tough decisions we need to fix a Medicaid program that is out of control.”

Originally published here: <http://news.heartland.org/newspaper-article/2012/06/26/illinois-raises-cigarette-taxes-ease-medicaid-cost-strain>

FIFTH DISTRICT DEMOCRATIC CANDIDATES TRY TO WOE LABOR BACKING

By Mary E. O'Leary
County Times (CT)
June 26, 2012

You would never know there was a scandal brewing in the 5th District congressional race.

There was only one hint Monday from one of the three Democratic candidates that something bigger than the contenders' usual talking points might be on people's minds.

House Speaker Chris Donovan of Meriden, former state Rep. Elizabeth Esty and Dan Roberti addressed the annual convention of the AFL-CIO in the hopes of getting its endorsement as they head for a Aug. 14 primary.

Mr. Donovan already has a large number of unions supporting him, but Mr. Roberti advised the delegates to be careful as to whom they back for this competitive seat that for 24 years was held by the same Republican, Nancy Johnson, before Democrat Chris Murphy won six years ago.

Calling himself the underdog, and comparing his agenda to Mr. Murphy's when the party took a chance on him a half dozen years ago, he said he is pounding the streets every day talking to voters .

"Make no mistake about it. Your decision today is very important ... I have to tell you, even among Democrats in this race there's been a big change and if you aren't careful about who you endorse, we could lose in November," Mr. Roberti said.

He then upped the ante, describing a national theoretical scenario where Democrats across the country win back 25 seats in the House, but lose the speakership because of one seat. If that happens, "that is on all of our heads," Mr. Roberti said.

"So think long and hard about who you are going to support on this one," he said.

The seat is open with Mr. Murphy hoping to get the party's backing for the U.S. Senate. In addition, four Republicans, state Sen. Andrew Roraback of Goshen, Mark Greenberg, Justin Bernier and Lisa Wilson-Foley are also in a primary fight.

Mr. Donovan's financial manager for the campaign has been arrested and charged with conspiring to bring in straw donors allegedly tied to the roll-your-own smoke shops in the state. A bill that would tax them died in the regular session, but has since been adopted.

Mr. Donovan, who has not been charged, has denied any wrongdoing or knowledge of the scheme and fired two other campaign workers. There were no questions on the scandal at the convention.

The Republican fight has its own legal drama with a grand jury looking into former Gov. John G. Rowland's consultant contract with Lisa Wilson-Foley's husband, at the same time he was advising her campaign.

Mr. Donovan, in addressing the crowd outlined his platform of fairness, dignity and respect and went through his accomplishments, from raising the minimum wage 12 times, to campaign finance reform and open collective bargaining for home healthcare workers and childcare workers.

He reminded the delegates that when the state was in a budget crisis under former Gov. M. Jodi Rell, she wanted to make cuts in social programs and personnel. "We said no. ... we raised taxes on millionaires. If can do that in Connecticut," he said, we can do that in Washington.

Ms. Esty praised unionism for building the middle class. She said the country is seeing people turn back the clock on fights that had already been won on workers' health care and fair wages.

"There is a lot at stake," Ms. Esty said.

She said there are those who talk about getting rid of entitlements. "Every week, aren't they taking that money out of your pay check?. You have earned that," she said of Social Security and Medicare.

She took issue with politicians more interested in tax credits for the rich than with sustaining the National Labor Relations Board.

They all supported campaign finance reform and changes to eliminate the corrosive effect of money in politics. Ms. Esty said Barack Obama has to be re-elected so he gets to influence who replaces members of the Supreme Court.

In taking questions from the delegates, they supported the postal service and said it had been set up to lose money. Ms. Esty said it needs a creative solution, such as offering credit union services, while Donovan said more people are using the mail to buy goods

Originally published here:

<http://www.countytimes.com/articles/2012/06/26/news/doc4fe997a2a13b4438247630.txt?viewmode=fullstory>

MISSOURI HIGH COURT HEARS CHALLENGE TO THREE BALLOT INITIATIVES

By David A. Lieb, The Associated Press

The Kansas City Star (MO)

June 25, 2012

*****This AP story was picked up in several publications in Missouri and Kansas***

The Missouri Supreme Court questioned Monday whether voters should still get a say on three pocketbook initiatives this November if it rules that the state auditor, Tom Schweich, didn't have the authority to estimate the measures' effect on state revenues.

At issue before the seven-member high court are initiatives that would ask voters whether to raise tobacco taxes, increase the state's minimum wage and limit the interest rates that can be charged on payday loans. Supporters have submitted petition signatures to get all three measures on the general election ballot.

While election authorities are still counting and verifying those signatures, the Missouri Supreme Court is considering a constitutional challenge to a 1997 law directing the auditor to prepare financial estimates that appear on petition sheets and the ballot.

Judges in Cole County, which is the seat of Missouri government, issued conflicting rulings earlier this year on whether that law runs afoul of a section of the Missouri Constitution forbidding laws that impose duties on the auditor not related to supervising or auditing the collection and spending of public

money. Circuit Judge Jon Beetem ruled the law violated the constitution because the financial estimates deal with future costs or savings, not the auditor's core function of examining money already spent or received. But in a separate case, Circuit Judge Dan Green found no problem with the 1997 law.

On Monday, attorney Chuck Hatfield argued that the Supreme Court should side with Beetem.

"There's absolutely no audit here" in the preparation of financial estimates for initiatives, said Hatfield, who represents clients challenging the payday loan and tobacco tax initiatives.

Yet attorneys for the state said the financial estimates are a legitimate function of the auditor. They cited a constitutional provision stating the auditor shall undertake "all other audits and investigations required by law." The financial estimate essentially is an investigation related to the receipt or expenditure of public money, said Ronald Holliger, general counsel for Attorney General Chris Koster.

Supreme Court judges questioned attorneys on what to do if they decide that the auditor has no constitutional authority to prepare financial estimates for initiatives. Should the three initiatives be barred from the ballot? Or should they appear on the ballot without a financial summary?

Holliger recommended that the measures be placed on the ballot, minus the wording about government costs or revenues.

To rule otherwise "means that the initiative process has been destroyed for this year, and at least next year, and maybe even beyond that," if the legislature can't come up with a new way for developing financial estimates, he said.

Hatfield suggested another alternative. He said the Supreme Court should bar the auditor from preparing financial estimates and refer the cases back to Cole County Circuit Court for further hearings on whether the initiatives should go on the ballot. That could result in another judgment that could be appealed back to the Supreme Court.

The Missouri Supreme Court also heard arguments on the specific details of each ballot initiative during a hearing that lasted over three hours and featured 10 attorneys, some of whom were involved in multiple ballot initiatives.

Among other things, the court is considering whether to uphold Green's ruling against the payday loan initiative, which invalidated both Schweich's financial estimate and the summary statement prepared by Secretary of State Robin Carnahan. Trial judges had upheld the summary descriptions prepared for the minimum wage and tobacco tax initiatives, but opponents argued Monday that those summaries were insufficient and unfair.

Originally published here: <http://www.kansascity.com/2012/06/25/3675823/missouri-high-court-hears-challenge.html#storylink=cpy>

PROP. 29 GOES DOWN FOR THE COUNT

Convenience Store News

June 25, 2012

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Mr. Donovan, in addressing the crowd outlined his platform of fairness, dignity and respect and went through his accomplishments, from raising the minimum wage 12 times, to campaign finance reform and open collective bargaining for home healthcare workers and childcare workers.

He reminded the delegates that when the state was in a budget crisis under former Gov. M. Jodi Rell, she wanted to make cuts in social programs and personnel. "We said no. ... we raised taxes on millionaires. If can do that in Connecticut," he said, we can do that in Washington.

Ms. Esty praised unionism for building the middle class. She said the country is seeing people turn back the clock on fights that had already been won on workers' health care and fair wages.

"There is a lot at stake," Ms. Esty said.

She said there are those who talk about getting rid of entitlements. "Every week, aren't they taking that money out of your pay check?. You have earned that," she said of Social Security and Medicare.

She took issue with politicians more interested in tax credits for the rich than with sustaining the National Labor Relations Board.

They all supported campaign finance reform and changes to eliminate the corrosive effect of money in politics. Ms. Esty said Barack Obama has to be re-elected so he gets to influence who replaces members of the Supreme Court.

In taking questions from the delegates, they supported the postal service and said it had been set up to lose money. Ms. Esty said it needs a creative solution, such as offering credit union services, while Donovan said more people are using the mail to buy goods

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FDA MARKS THIRD ANNIVERSARY OF TOBACCO REGULATIONS

By Thomas A. Briant

CSP.net

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A look at back, a look forward

This month marks the third anniversary of the passage and implementation of the Family Smoking Prevention and Tobacco Control Act, the federal law that authorized the FDA to regulate cigarettes, roll-your-own and smokeless tobacco products.

Over the past three years, some of the major tobacco regulations have included the banning of the sale of cigarettes with a characterizing flavor, the prohibition of self-service displays in retail stores (except in age-restricted tobacco shops), restrictions on advertising claims and the release of nine text and graphic

picture cigarette health warnings. The cigarette health warnings are now the subject of two federal lawsuits resulting in a delay of the original effective date of Sept. 22, 2012.

Other significant regulations that are either pending or expected to be issued soon include: (1) a proposed retail violation reporting form that will allow members of the public to report potential retail violations directly to the FDA via smartphone, the Internet, by phone, or mail; and (2) a set of proposed regulations that the FDA has announced will apply to other tobacco products, such as cigars, pipe tobacco and electronic cigarettes.

Regarding the violation reporting form, please note that the federal Office of Management and Budget is now reviewing the violation reporting form and needs to decide whether to approve the use of the form by the FDA. As to the announcement regarding regulations on other tobacco products, the Tobacco Control Act granted the FDA the authority to extend regulations to other products besides cigarettes, roll-your-own and smokeless tobacco.

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