

October 10, 2011**COURT ALLOWS CIGARETTE MACHINES TO KEEP RUNNING**

Post Crescent (Appleton, WI)

By Kathleen Foody

October 7, 2011

A Dane County judge ruled in favor of a Rib Mountain tobacco shop owner Friday and ordered the state to suspend a regulation that classified his and other stores as cigarette manufacturers.

The Department of Revenue announced in September that all owners of commercial roll-your-own cigarette machines would be considered manufacturers and distributors of cigarettes. The state's intent was to crack down on customers dodging cigarette taxes.

Dozens of machines were shut down in Wisconsin since the state's notice went out, but after Judge Juan Colas' ruling machine owners will be allowed to continue operating. The Department of Revenue estimates 50 to 100 roll-your-own machines are in Wisconsin.

Robert Petersen, owner of Rib Mountain Tobacco and Liquor and a plaintiff in the suit, said the temporary restraining order allows him and the owners of 52 other roll-your-own cigarette shops to stay in business.

"The judge found that there was enough evidence, that the state reacted too fast," Petersen said in a phone interview Friday evening.

The state argued that the machine owners and customers circumvent state and federal taxes on pre-packaged cigarettes, making cartons of roll-your-own cigarettes about \$30 cheaper than factory-made cigarettes. Enforcement of the rules was a question of fairness toward other cigarette retailers, according to the state.

"We are disappointed with the court's decision, but we remain dedicated to enforcing our tobacco laws and regulations fairly and equitably," Department of Revenue spokeswoman Stephanie Marquis said in a statement Friday.

Roll-your-own customers typically purchase loose tobacco and wrappers from a store, then pay a fee to use roll-your-own machines. Petersen and other store owners have argued that customers actually manufacture the cigarettes, not the owners of the machines.

"I think we're going to have 3,000 very happy customers after (Friday's) decision," Petersen said.

According to online court documents, the parties will return to court in November.

<http://www.postcrescent.com/article/20111008/APC0101/110080470/Court-allows-cigarette-machines-keep-running>

JUDGE ALLOWS RYO CIGARETTE MACHINES TO KEEP RUNNING FOR NOW

WAOW-9 ABC

By Daniel Woodruff

October 7, 2011

A Dane County judge has decided to allow store owners to keep their "Roll your Own" cigarette machines running for now.

The state had ordered businesses to shut those machines down until they obtained a permit to manufacture them. In response, store owners filed a lawsuit. They said they should not be considered manufacturers because customers make their own products.

Stephanie Marquis, spokesperson with the Wisconsin Department of Revenue, said, "We are disappointed with the court's decision, but we remain dedicated to enforcing our tobacco laws and regulations fairly and equitably."

<http://www.waow.com/story/15645073/judge-allows-cigarette-machines-to-keep-running-for-now>

ROLL-YOUR-OWN CIGARETTES GIVE MANUFACTURER BOOST

Daytona Beach News-Journal

By Audrey Parente

October 10, 2011

Factory owner Norman Lane pays his employees a \$10 bonus not to smoke.

But he credits a machine that rolls cigarettes with breathing new life into his company.

At Rotomation, in the Ormond Beach Airport Business Park, Lane designs and manufactures actuators -- gizmos that provide rotation-motion capability for machinery used in automation.

For nearly 40 years, the company with three workers in Allendale that Lane's late father bought in 1972 grew and shipped products worldwide. Rotomation's product line expanded over the years to 30 product groups, each of which can be configured to more than 150 billion design possibilities. The company has made tens of thousands of those variations.

But in 2008, during the nation's worst recession since the Great Depression, Rotomation seriously struggled. The company avoided layoffs but was forced to cut back the hours for its 11 employees to three days a week.

"Business fell below 50 percent," said Lane, a 1973 Seabreeze High School graduate. He earned an engineering degree from the University of Florida and worked elsewhere before joining his late father's company.

During the downturn, nobody quit, said Lane, now president.

"We kept full benefits and had flexible hours so people could take other jobs," he said. "But nobody got a raise." And his 42 distributors weren't doing much.

Then, near the end of 2009, Rotomation's downward trend took a dramatic upturn when a new cigarette-rolling business, RYO Machine Rental LLC, headquartered in Ohio, started ordering actuators for their machines.

The RYO machines, which began popping up in small shops across the country, stuff loose pipe tobacco into paper tubes and pop out cigarettes into a carton-shaped plastic-tub -- at a few dozen a minute.

Several local roll-your-own shops in Volusia and Flagler counties, including Let It Roll in Holly Hill, began giving smokers looking to escape high-priced commercial brands an alternative product. More than 1,000 shops using RYO machines have opened in 35 states over the past three years, according to the company's website.

"RYO kicked in big time," Lane said. "Toward the end of 2009 and in 2010, they really took off."

Lane said his workers all came back, "first four, then five, then six days," he said. "We hired one more guy and bought more equipment, and our shop began running 60 hours a week for a good part of last year."

<http://www.news-journalonline.com/business/local-business/2011/10/10/roll-your-own-cigarettes-give-manufacturer-boost.html>

NEW JERSEY CONSIDERS NEW TAXES ON NON-CIGARETTE TOBACCO PRODUCTS

Press of Atlantic City (Pleasantville, NJ)

By Brian Ianieri

October 6, 2011

Little cigars, which are taking increasing space on area tobacco-shop shelves, are shaped and smoked just like cigarettes. But because New Jersey taxes them differently, they cost nearly one-third the price.

Over the past several years, increased state and federal taxes have helped turn some smokers on to less-taxed tobacco products, local shop owners and anti-smoking groups say.

New Jersey has a \$2.70 tax per cigarette pack, and the federal government has a \$1.01 excise tax it enacted two years ago.

That sixth-highest cigarette tax in the country may entice more smokers to quit or prevent others from starting, said Karen Blumenfeld, executive director of Global Advisors on Smokefree Policy, a New Jersey-based anti-smoking group. But inconsistencies in taxes among various tobacco products cause some smokers to simply switch products, she said.

“We are lagging, as are many other states, with the other types of tobacco products. The industry has caught on to the fact that there’s this loophole with regard to other smoked tobacco products, and they’re cheaper,” said Blumenfeld, who wants a uniform pricing that would tax all tobacco products as cigarettes.

New Jersey collected nearly \$742 million in cigarette taxes last year. That was a 4 percent drop, or \$33.1 million less, compared to 2008, state Treasury Department data show.

Yet revenue from other tobacco products — such as cigars, little cigars, chewing tobacco, pipe tobacco, and roll-your-own — shot up 26 percent in that time, generating \$3.7 million more from lower tax rates.

The state has a wholesale tax on these products that is 30 percent of the price the wholesaler pays the manufacturer, Treasury spokesman Bill Quinn said.

“If I had to buy cigarettes for seven, eight dollars, I’d consider quitting,” said Dave Schubiger, 52, of Barnegat Township, who bought a 10-pack carton of little cigars for about \$22. Had they been cigarettes, it would have cost him nearly \$75.

“Price is a big thing; plus, I like them,” he said.

In New Jersey, little cigars in particular have been targeted by proposed legislation that seeks to tax them the same as cigarettes.

“The additional tax will make little cigars less appealing to current cigarette smokers seeking a cheaper alternative,” reads the proposed bill sponsored by state Sen. Paul Sarlo, D-Bergen, Essex, Passaic.

The Office of Legislative Services estimated in 2010 that the bill would increase tax revenue from \$6 million to nearly \$9 million. The office estimated more than 5 million packs of little cigars were sold in fiscal year 2010.

But rising taxes will not stop people from smoking, although future increases may hurt New Jersey businesses that are being undercut by other states that have lower tobacco taxes and, likewise, cheaper tobacco, said Jeff Melchiondo Sr., owner of Tobacco Road in Barnegat.

The tobacco shop Melchiondo runs with his son sells cigars, pipe tobacco, cigarettes, roll-your-own tobacco and little cigars.

“Whether cigarettes are selling for \$2 a pack or \$8, people will still smoke — that may put more weight on the roll-your-own market if that is not taxed any more. The little-cigar smoker may go back to roll-your-own instead,” he said.

Roll-your-own cigarettes have been popular, but that tobacco is taxed more heavily than pipe tobacco, which can be used instead. Roll-your-own tobacco has a federal tax of \$1.55 per 1-ounce pouch. Pipe tobacco, on the other hand, has a federal tax of about 18 cents per 1-ounce pouch.

Nationally, nearly 3.6 billion fewer cigarettes were manufactured from January to July than last year, a 2 percent drop, data from the federal Department of Treasury’s Alcohol and Tobacco Tax Bureau show.

Meanwhile, pipe-tobacco manufacturing picked up substantially — by about 5.7 million pounds, or about 44 percent.

Bob Tyjewski, manager at Smoker’s Haven in Galloway Township, has seen roll-your-own-cigarette sales double in the past few years. The shop keeps roll-your-own tobacco and pipe tobacco together on a shelf.

“Going to roll-your-own is an economic move, not because you got tired of what your Marlboro tastes like. It’s a matter of nickels and dimes,” he said.

Tyjewski said he is losing business to other states. New Jersey is behind only New York, Hawaii, Connecticut, Washington, and Rhode Island in the highest cigarette taxes.

Pennsylvania and Delaware's cigarette tax is \$1.60 a pack.

Tyjewski has even seen the reverse — he has regular New York clients heading to Atlantic City who buy cartons of cigarettes. New York's cigarette tax is the highest in the nation, at \$4.35 per pack. They save \$16.50 in state taxes per carton.

“The government, they don't want you to smoke, but you can bet they spent that tax money,” he said.

Absecon resident Bharat Patel, manager of Northfield News and Tobacco in Northfield, said little cigars and roll-your-own have increased significantly in the past few years due primarily to the price of cigarettes.

In New Jersey, about 14 percent of the adult population — about 1 million people — are smokers, data from the federal Centers for Disease Control and Prevention show. The national median is about 18 percent.

At Tobacco Road, little cigars come in two brands: Cheyenne and 1839. They come in full flavor, light, menthol, cherry, peach and others.

Little cigars are more profitable for Tobacco Road to sell than cigarettes which, unlike little cigars, are available nearly everywhere and have low profit margins in order to compete, Melchiondo said.

Now, the shop sells as many packs of little cigars as they do cigarettes, he said.

“People will still buy them as long as they're reasonable enough. If these go up to 3 or 4 dollars a pack, then they'll go back to buying the roll-your-own stuff, probably,” he said “As long as there are savings involved, I think a market will still be there.”

http://www.pressofatlanticcity.com/news/press/new_jersey/new-jersey-considers-new-taxes-on-non-cigarette-tobacco-products/article_2359e9f2-f07e-11e0-8b9e-001cc4c002e0.html

ROLL YOUR OWN SHOPS GET REPRIEVE

Wisconsin Radio Network

By Andrew Beckett

October 10, 2011

Efforts by the state Department of Revenue to collect tobacco taxes from shops offering the use of cigarette rolling machines face a roadblock in court. A Dane County judge on Friday issued an order prohibiting the state from collecting higher taxes from the stores while a legal challenge from several of the businesses is pending.

The Department in September sent letters to roll your own businesses across the state informing them that their services count as selling manufactured cigarettes, so they need to collect the full taxes on the products and also get the necessary permits and certifications from the state. Several retailers filed suit against the action, claiming they are exempt because it's the customers making the cigarettes.

Kurt Kruchten, who runs "Smokes-4-Less" in Slinger, says the stores are offering a valuable option for consumers and the businesses are not the same as buying a pack of cigarettes from the store

A spokesperson with the Department of Revenue says the agency is disappointed with the court's decision, but remains dedicated to enforcing the state's tobacco laws and regulations fairly and equitably.

<http://www.wrn.com/2011/10/roll-your-own-shops-get-reprieve/>