



DAILY NEWS CLIPS

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ROLL YOUR OWN SMOKE SHOP A HIT IN TORRINGTON

By Marc Silvestrini

Waterbury Republican-American (CT)

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Cindy Foss of Morris was already shopping in Torrington, another stop wouldn't be all that inconvenient, she said — especially considering how much cash one extra stop can save.

Cindy is a smoker; so is her husband. Buying cigarettes at a convenience store or grocery by the carton — each containing 10 conventional packs of cigarettes — costs her about \$90 per carton, or \$180.

Making that extra trip to Bogie's Tobacco Factory at 1243 East Main St., a roll-your-own tobacco shop that opened in the Top of the Hill Plaza about three weeks ago, allowed Foss to buy the equivalent of a carton of smokes for \$39.95, or two cartons for \$79.90.

"For one thing, I like the tobacco I buy here, it's got a much cleaner, fresher taste," she said during a recent visit to the shop. "And you just can't beat the price. I come here and use the machines to roll my own smokes because I like the way they taste, and I really like the savings. But the big reason is really the savings. You can save an awful lot of money by coming to a place like this."

LIKE VIDEO STORES IN THE 1980S, roll-your-own tobacco shops are popping up all over the place. Two years ago, Connecticut had none; now there are between 12 and 15, including Bogie's and two Smoke House Tobacco stores in Waterbury, one at 1480 Meriden Road and the other at 406 Watertown Avenue.

Roll-your-own tobacco stores have become popular in many states because of a new generation of roll-your-own cigarette machines that make it possible for smokers to roll 200 cigarettes — the equivalent of a traditional carton — in about eight minutes.

The roll-your-own machines, and the tobacco stores that make them available, make it possible to skirt state and federal taxes imposed on purchases of prepackaged cigarettes. In Connecticut, the state imposes a \$3.40 tax on every prepackaged pack, or \$34 a carton, the highest cigarette tax in the nation behind only New York and Rhode Island. On top of the state tax, comes the federal tax of \$1 per pack, or \$10 per carton.

Roll-your-own tobacco stores sell customers loose tobacco and hollow, filtered cigarette tubes. They then charge the customer a rental fee to use one of their roll-your-own machines to convert the loose tobacco and tubes into cigarettes. Though customers pay all applicable sales taxes on the goods they purchase, they avoid the \$44 in state and federal taxes that apply to prepackaged cigarettes. In addition, the tobacco is taxed at a lower rate because it is deemed to be loose "pipe tobacco," which tastes virtually the same as cigarette tobacco but is taxed at a much lower rate.

"That's basically the loophole," said Ben Hogan, the manager of the Smoke House Tobacco shop on Meriden Road "That's how stores like this can offer their customers the prices we offer."

THOUGH CUSTOMERS ARE HAPPY, the tax man is not. State governments across the nation, and the federal government, are scurrying to close the tax loopholes that allow these shops to sell their merchandise at such low prices. Acting on a request from the state Department of Revenue Services, the Connecticut legislature's Finance, Revenue and Bonding Committee struck the latest blow in this skirmish last week when it approved a measure to designate roll-your-own tobacco shops as cigarette manufacturers. If the legislature agrees, this would require the shops to charge customers the same taxes and tariffs that apply to prepackaged cigarettes, and to obtain a state license that costs \$5,250 a year. The measure now passes to Gov. Dannel P. Malloy and Democratic leaders who will decide whether to include it in the state's mid-term budget.

It is not clear at this time how much revenue the state is losing.

The DRS sought legislative support after a setback in February: state Superior Court Judge William Bright ruled that roll-your-own shops are not manufacturers and therefore not violating any laws in allowing customers to operate the automated rolling machines. As part of that decision, Bright denied a preliminary injunction that would have allowed the state to bar the use of roll-your-own machines at tobacco shops.

The state is by no means ready to concede defeat. Judge Bright did grant a "narrowly defined" injunction, said Susan E. Kinsman, the communications director for Attorney General George C. Jepsen, who filed suit on behalf of DRS Commissioner Kevin B. Sullivan. The suit targeted Tracey's Smoke Shop and Tobacco, charging the company with illegally manufacturing cigarettes at its shops in Orange and Norwalk. Bright's ruling said "the machine operation is legal as long as only the customer is involved in operating the machine, and the shop doesn't claim or advertise that they're selling cartons of cigarettes," Kinsman said in an email. "The state's position continues to be that this practice is illegal, and we are continuing to litigate."

HOGAN SAID HE WENT INTO THIS ENTERPRISE knowing the state would likely try to reclassify the business to make prepackaged cigarette taxes applicable, but he argues the "manufacturers contention is misinformed.

"We're not manufacturing cigarettes, we're simply supplying our customers with tobacco and empty tubes and letting them rent our machines," he said.

Hogan said the process is similar to someone going to a store to purchase yarn. "When you first buy the yarn, are you taxed for that purchase? Of course you are," he said. "But if you take that yarn home and knit yourself a sweater, are you taxed for that sweater? No. There's no tax on that because you didn't

actually buy a sweater; you bought a bunch of yarn and made your own sweater."

His customers, he said, do not purchase a pack or carton of prepackaged cigarettes; they purchase a quantity of tobacco and tubes and then rent the rolling machines to produce their own finished product. "The guy that sold you that ball of yarn that you turned into a sweater isn't the manufacturer. You are. And that's exactly what goes in here. There's no difference."

The difference for smokers is the price they pay, said Robert Noto, a Norwalk resident who owns Bogie's in Torrington and another roll-your-own shop at 22 Mill Plaza Road in Danbury. "I guess it's a sign of the times," he said. "People who smoke are looking for alternatives that don't take quite as big a bite out of their wallets."

In most cases, Noto and his partner, Greg Olson, of Alliance, Neb., sell customers an 8-ounce bag of tobacco that comes in a variety of flavors and blends, and a box of 200 hollow, filtered cigarette tubes. Customers pay \$18.54 for the bag of tobacco and \$4.02 for the box of tubes.

They can load the tobacco and tubes into one of the shop's two 750-pound RYO Filling Station units, for a rental fee of \$15. The machine converts 8 ounces of tobacco into about 200 cigarettes in about 8 minutes, Noto said.

The computerized RYO machines, made in Girard, Ohio, by RYO Machines, cost about \$35,000, are driven by an air compressor.

According to the company, which was established in 2008, it has sold almost 2,000 RYO Filling Station machines in more than 40 states. To avoid being categorized as a tobacco manufacturer, Noto and his three employees can only teach their customers how to load and operate the machine; they can't operate the machine for the consumer.

Customers who purchase tobacco or tubes are not obligated to use the machines, Noto said. A small percentage of customers have been rolling their own cigarettes at home for years, using traditional hand-operated machines.

Noto estimates that 90 percent of his customers purchase their tobacco and tubes from the store and rent a machine. The other 10 percent either purchase their tobacco and tubes from the store and roll their own cigarettes at home, or they bring their own tobacco and tubes to the store and rent a machine.

Customers can rent a machine as long as the tobacco and tubes they use is sealed in their original packages, Noto said. Customers must also produce a sales receipt to prove they paid the proper state sales tax.

ABOUT 20 MILES SOUTH of Bogie's Torrington location, Hogan also sells the equivalent of a carton of "smokes" — like Noto, he does not use words like "cigarettes" or "cartons" — for \$39.95. The same group of local investors own both Waterbury stores. The Meriden Road store opened last July, while the Watertown Avenue location was launched in November. The two stores employ 13 people. Meriden Road has three RYO machines, while Watertown Avenue has two.

Customers weren't quite sure what to make of the Meriden Road tobacco shop when it first opened,

Hogan said, but warmed to the idea once they realized they could cut the cost of their cigarette purchases in half.

Hogan says business has been "very strong" ever since. Meriden Road sells the equivalent of 60 to 70 cartons a day, while Watertown Avenue sells about 50, he said.

"Let's face it, this business is like any other business," he said. "Price dictates the market."

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KANSAS FIRE MARSHAL FORBIDS "ROLL YOUR OWN" CIGARETTE MACHINES

KSN NBC-3 (Wichita, KS)

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Things are heating up at local smoke shops in Kansas.

About 20 vendors across the state can no longer rent out their large "Roll Your Own" cigarette machines.

"They shut us down without any court action," said Owner of Davis Liquor and Smoke Shop.

The machines, which roll loose tobacco and unfiltered papers into cigarettes, are not the concern.

"I sell this and a bag of tobacco and hope that they will rent my machine," said Davis.

The problem is the paper used does not resist quick burn rates, like pre-rolled cigarettes, creating a fire hazard.

"The fire safe standard was set around a completed cigarette 29 I don't sell completed cigarettes through that machine," said Davis.

Cigarette manufacturers are required to use slow burning papers that keep cigarettes from burning longer than about five minutes.

"Roll Your Own" vendors say they don't fall into the manufacturing category.

They have been to federal court over the issue in the past, where the court ruled in their favor.

"There has always been, since the 1950's, as designated by Congress, a personal use exemption for those that choose to roll their own," said President of RYO Machines, Phil Accordinio.

So, if it is legal to roll your own cigarettes, how does taking away the machines, and not the paper, solve the fire hazard issue?

"There's no such thing as fire safe paper for purposes of rolling your own," said Accordinio.

"Anyone that was buying the product from me and still buying it from me, they are just going home and doing it the hard way," said Davis.

The machines run about \$30,000 a piece- a big chunk of money for investors who can no longer rent them.

The "Roll Your Own" machines company has filed a lawsuit in Sedgwick County against the state.

The state Attorney General's Office and Fire Marshal declined to comment because of that lawsuit.

Original story and video here: <http://www.ksn.com/news/local/story/Kan-Fire-Marshal-forbids-Roll-Your-Own-cigarette/F7Kb7LCUxE-SqT1pZZrfpw.cspX>

ROLL-YOUR-OWN CIGARETTE SHOPS FACING COSTLY LEGISLATION

By Adam Duvernay
Shreveport Times (LA)
April 7, 2012

Roll-your-own cigarette shops are embattled across the United States, and pending legislation could hurt those businesses in Louisiana.

Measures in the U.S. against the stores — which allow customers to purchase tobacco, cigarette tubes and time on machines capable of rolling 200 cigarettes in about 10 minutes — have been legislative and powered by court action. The fight includes health and safety issues, but authorities and business owners say it comes down to tax revenue.

Louisiana House Bill 1170 would require retailers that offer access to rolling machines to use only roll-your-own (RYO) tobacco approved by the Louisiana Attorney General's Office. It would also require the tubes used to make the cigarettes be made of paper determined by the state fire marshal.

"If this passes, our costs will increase without a doubt," Local RYO cigarette shop Smoke 4 Less Partner Aaron Tatum said. "Whether it will increase them so much as to be cost prohibitive remains to be seen."

The bill was written to replace another bill scrapped earlier this year.

If passed, HB 488 would have amended Louisiana law to include RYO cigarette shops under the definition of cigarette manufacturers. Louisiana RYO shop owners believe this reclassification would have essentially shut them down because their small businesses do not have the manpower or funds to adhere to strict regulations on manufacturers.

Louisiana Rep. Bob Hensgens, author of HB 488 and HB 1170, did not return phone calls requesting information on the bills.

"Some states have been more aggressive with action against roll-your-own shops because they're losing real money," said Louisiana Office of Alcohol and Tobacco Control Agent Jedd Faulk. "In Louisiana, we're closer to tax revenue neutral, so you don't see court action and machines being seized."

The Louisiana Attorney General's Office declined to comment for this story due to pending legislation.

New York City lawyers have filed suit this year against dozens of RYO shops alleging they have evaded taxes by paying rates reserved for pipe tobacco.

Originally published here:

<http://www.shreveporttimes.com/article/20120408/NEWS05/204070338/Roll-your-own-cigarette-shops-facing-costly-legislation>

TAXY TURVY

By Cindy Texeira

Nisqually Valley News (WA)

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Governor revives roll-your-own tax

Self-rolled smokes, or machine-rolled cigarettes, are the target of a proposed tax.

The proposed tax found new life when Gov. Christine Gregoire snagged it off the Senate's stack of "nowhere bills" and put back "on the table."

The tobacco tax bill passed the House but stalled in the Senate.

James and Marcy Chapman, owners of J & M Tobacco in Yelm, are worried about the proposed tax. If approved, it could go into effect as soon as July 1.

The Chapman's store offers self-rolled smokes.

The couple said they are waiting to see what the bigger smoke shops will do about the measure.

The products offered at J & M are different than mass manufactured cigarettes, the Chapmans said. For one thing, they have no added chemicals.

Their tobacco comes from farms in Virginia, through a California distributor, and is shipped in bulk, loose form, to the shop.

"We don't add anything," James Chapman said Tuesday night.

They pay taxes on the wholesale tobacco, which is less than the tax on prepackaged cigarettes. They also pay taxes when they purchase rolling machines, and they charge taxes on the rental of a machine used by customers to roll cigarettes.

Most tobacco used for roll-your-own or RYO cigarettes is considered pipe tobacco and not taxed like pre-packaged cigarettes.

To capture that “lost” revenue, the tax proposal puts the tobacco on an even playing field, according to some proponents of the measure.

The tax could increase by \$32, the cost of a carton’s worth of cigarettes, or 10 packs of 20. That puts RYOs in the prepackaged ball park, depending on the brand.

Even with the tax, James Chapman said he has faith that people will still buy his product because the quality is better, it will still be cheaper and people actually save money because they smoke less when the quality of the tobacco is higher.

So for him, argument that the tax will deter people from smoking doesn’t fly.

Mark Ryan, owner of Yelm Smoke Plus & News, is a traditional tobacco shop and will not be affected by the tax. Though he sells the machines to roll cigarettes, he does not demonstrate how to use the machine in the store or allow folks to roll their own.

Because their products differ, Ryan said that his shop and the Chapman’s are complementary.

So how does one continue to afford to smoke?

It’s a challenge with the Washington weather, Chapman said, but Washington state law allows people to grow tobacco for own for yourself and your family.

“You just can’t sell it,” Ryan said.

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http://www.yelmonline.com/articles/2012/04/06/local_news/doc4f7f7b73cc268234755013.txt

YOUR HEALTH: GOOD NEWS FOR SMOKERS, BAD NEWS FOR PUBLIC HEALTH

WNYF FOX-28 (Watertown, NY)

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What wasn't in the New York state budget affects smokers.

Gov. Andrew Cuomo's proposed budget earlier this year sought to close a loophole in the law by taxing loose tobacco at the same rate as cigarettes: \$4.35 an ounce.

Anti-smoking advocates heralded the move, saying it would have positive impacts on public health.

But the tax increase didn't make it into the final budget and at least one convenience store owner is pleased.

Mark Bonner of the LeRay Street Dairy Market said taxes like the one proposed do little to stop people from smoking.

"They do just push them to other locations, whether it be Indian reservations, through the mail or online," Bonner said.

"So, they're going to get the tobacco, just not through the local people."

Not everyone is pleased. Tobacco Prevention Awareness Cessation Coalition (T-PACC) of Jefferson and Lewis Counties has told 7 News that increasing taxes on tobacco products have been very effective at getting smokers to quit.

They also help prevent young people from starting in the first place.

Originally published here: <http://www.wwnytv.com/healthy/Your-Health-Good-News-For-Smokers-Bad-News-For-Public-Health-146419645.html>

ANALYSIS: MO. BALLOT INITIATIVES FACE HURDLES

By David A. Lieb
Associated Press
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Missouri voters could get a say this fall on a bevy of big issues. Should the state's income tax be replaced with a higher sales tax? Should the tobacco tax be hiked? Should the minimum wage be raised? Should payday loan rates be limited? Should St. Louis gain control over its police force?

Supporters have been gathering petition signatures in hopes of qualifying each item for the November ballot. But with the deadline to submit those signatures just one month away, it is not certain whether any of those hundreds of thousands of signatures even will matter.

That's because all the prospective ballot initiatives remain tied up in court, with the potential of getting tossed out.

Regardless of who wins or loses come November, one of the most significant aspects of Missouri's 2012 election season may be the sheer proliferation of potential ballot initiatives and an accompanying rise in litigation.

Missouri is one of 24 states that allow citizens to initiate proposed changes to state statutes or the constitution, typically by collecting enough petition signatures to qualify the issue for a statewide vote. The first step in the process is to submit a proposed initiative to the secretary of state's office, which oversees elections.

A total of 143 initiatives have been turned in for the 2012 election _ an amount nine times greater than the mere 16 initiatives submitted in 2004.

That increase is due not to an abundance of new ideas for laws. Rather, the growth reflects a new trend in which supporters are submitting multiple versions of their potential ballot initiatives _ sometimes changing only a few words in the hopes of getting a favorable ballot summary from the secretary of state's office and one that could withstand possible legal challenges.

For example, supporters of an initiative about local tobacco taxes submitted 27 versions to the secretary of state's office, none of which are still being pursued for the ballot. Proponents of a proposal to scrap the state income tax in favor of a broader sales tax submitted 22 versions, according to the secretary of state's office. A group proposing a statewide tobacco tax increase turned in a dozen versions.

For each version, the attorney general must approve the format, the secretary of state must prepare a ballot summary and the state auditor must develop a financial estimate. The secretary of state then certifies the initiative to be circulated, clearing supporters to begin gathering signatures.

In recent years, an initiative's official certification has served as the launching point for lawsuits contending the ballot summary and financial estimate are insufficient and unfair. The secretary of state's office says there have been 50 lawsuits challenging initiatives for the 2012 election, up from just four lawsuits in 2006.

Secretary of State Robin Carnahan is frustrated by the extra burden the initiative surge has placed on her office. A "fact sheet" from her office declares that the petitions have "become more of a political tool than a serious method of changing the law" and says the lawsuits "waste time and tax dollars."

All the lawsuits start in Cole County Circuit Court, where there have been conflicting rulings from judges. Judge Jon Beetem, for example, recently ruled that the auditor has no constitutional authority to prepare financial estimates for ballot initiatives _ an argument apparently rejected by Judge Dan Green last week in a lawsuit against a different initiative. Consequently, it most likely will fall to the state Supreme Court to decide which judge is right.

As it stands, a circuit judge has upheld the ballot summary for the St. Louis police initiative, though it now is on appeal. A judge has struck down the ballot title for the payday loan initiative, which also could be appealed. And a judge could rule this coming week on the income-and-sales tax initiative. But hearings have yet to be held on challenges to the ballot summaries for the minimum wage and tobacco tax.

Supporters of the minimum wage and payday loan measures plan to submit signatures despite the uncertainty. So do supporters of the tobacco tax initiative.

Although they have been circulating petitions, supporters of the income-and-sales tax initiative aren't certain whether they will turn in signatures. "Our plans moving forward a really up in the air. Everything pretty much hinges on that decision" in court, said Anne Marie Moy, a spokesman for the initiative supporters.

Jefferson City attorney Marc Ellinger has represented the supporters of at least three initiatives, including the income-and-sales tax measure, while also represents the opponents of at least three other initiatives, including the payday loan measure.

Ellinger believes it's possible that just two of the initiatives ultimately will appear before voters.

"Getting a measure on the ballot, which was always intended to be relatively difficult, is exceptionally difficult now, between the combination of litigation and the multitude of measures that are out there," Ellinger said. "You have to be pretty darned determined, and you have to write really good language."

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