

DAILY NEWS CLIPS

May 3, 2012

RELABELED ROLL-YOUR-OWN-TOBACCO COSTING FEDS, STATES \$1.3 BILLION IN LOST REVENUES

By Janice Podsada
The Hartford Courant (CT)
May 2, 2012

Tobacco manufacturers that re-label roll-your-own cigarette tobacco as pipe tobacco are cheating federal and state authorities out of an estimated \$1.3 billion in lost state and federal tax revenues, according to a report released Wednesday by the Centers for Disease Control and Prevention.

Last month, the Government Accountability Office found that cases of roll-your-own tobacco were being sold in packages labeled as pipe tobacco. The federal excise tax on loose tobacco used for roll-your-own cigarettes is \$22 per pound higher than the excise tax on pipe tobacco.

According to the report, 45 million pounds of this mis-labeled tobacco has been sold from April 2009 to August 2011, lowering state and federal tax revenues by more than \$1.3 billion.

Connecticut's revenue loss is estimated at more than \$3.1 million. About a dozen roll-your-own tobacco shops have opened around the state in the past two years.

U.S. Sen. Richard Blumenthal, who led a multistate lawsuit against cigarette companies years ago as state attorney general, joined a group of senators Wednesday who condemned the practice of re-labeling loose tobacco. They expressed concern that it reduces the amount of federal taxes collected on roll-your-own tobacco, a portion of which would otherwise be used to support programs to curtail tobacco use.

"Tobacco manufacturers have once again found a way to skirt the law in order to continue peddling their dangerous product," Blumenthal said in a joint statement with U.S. Sens. Tom Harkin, D-Iowa, Dick Durbin, D-Ill., and Frank Lautenberg, D-N.J.

"Congress instituted tax increases and established tobacco-cessation programs to help encourage Americans to quit this harmful habit, and these efforts have proven effective. However, due to this tax loophole, tobacco companies are still able to make cheap tobacco products available, which may

discourage some smokers from quitting. We ... remain committed to closing this loophole and will continue our efforts to help Americans quit tobacco."

The self-serve shops sell loose tobacco and "rent" the use of an automated cigarette-rolling machine to customers. Employees don't touch the machines, but "talk" customers through the process. The machine makes the equivalent of a carton — 200 cigarettes — in 10 minutes for about \$40, a savings of \$25 or more over a carton of brand name cigarettes.

The General Assembly is considering legislation that would require roll-your-own tobacco shops to pay \$5,000 for an annual manufacturer's license.

In addition, the measure would require roll-your-own shops to comply with all manufacturing rules and regulations related to cigarette manufacturing -- including paying Connecticut's cigarette tax, which adds about \$3.40 to a pack of cigarettes, Department of Revenue Commissioner Kevin B. Sullivan has said.

The added fees and taxes would bump up the price of roll-your-own cigarettes to the point where they could cost almost as much as a name-brand pack, Sullivan said.

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FLORIDA LOSES \$63M IN TOBACCO TAX WITH FEDERAL LAW'S LOOPHOLE

By Marni Jameson
Sun Sentinel (FL)
May 2, 2012

Florida missed out on \$63 million in tobacco-tax revenue from April 2009 to August 2011 because of a loophole in a federal law that went into effect in 2009, according to a report released Wednesday by the Centers for Disease Control and Prevention.

The law enabled smokers who roll their own cigarettes to pay less in taxes, because that type of tobacco could be reclassified into a lower tax rate.

Federal law classifies a product as either pipe tobacco or roll-your-own tobacco based on the product's label rather than on its characteristics, so tobacco manufacturers started labeling more of their loose tobacco as pipe tobacco. The tax difference amounted to \$21.95 per pound.

As a result, Florida missed out on more than twice as much tobacco-tax revenue than any other state, the report said. Texas was second at \$31 million in missed tax revenues.

"When cigarette smokers use pipe tobacco to roll their own cigarettes, they blunt the impact the tobacco tax is having, and it allows smokers to maintain their addiction to tobacco," said Michael Tynan, co-author of the CDC report.

Nationally, the total amount of state and federal tax revenues not collected in this period exceeded \$1.3 billion, according to the CDC report. Eleven states each missed out on at least \$10 million in tax revenues.

Once smokers realized they could roll their own and get cigarettes at a much lower price, the market responded accordingly.

Pipe-tobacco sales, which had been flat before the tax increase, jumped tenfold.

Helping the trend is the rising number of stores that sell loose tobacco and the use of high-speed rolling machines that let consumers make their own cigarettes.

"Everybody is sick of paying these incredible prices to smoke," said Alan Siegel, owner of Ciggys4less, which has roll-your-own-cigarette franchises across Central Florida. "And they're looking for a cheaper alternative, which we can offer.

"They're not so much looking for a tax loophole," Siegel said. "The tobacco is by no means tax-free. Roll your own saves money and offers a higher-quality alternative [to manufactured cigarettes]."

Florida topped the national list for lost tobacco revenue for three reasons, Tynan said. As the fourth-most-populous state, it has a large population. And many of its residents are smokers. Among Florida's adult population, 17.1 percent smoke compared with 15.8 percent of Texans and 12 percent of Californians.

And third, it has a relatively high state cigarette tax — nearly five times that of Illinois, another fairly populous state, Tynan said.

The funds Florida did not get would have come from state — not federal — tobacco taxes. The Sunshine State has an annual budget of nearly \$70 billion.

Although the report only captured tax revenues for 28 months through August 2011, CDC analysts have continued to track the numbers.

"All indications are that the trends have continued and not slowed," Tynan said.

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NEW YORK LOST \$16.9 MILLION FROM TOBACCO TAX LOOPHOLE

By Brian Tumulty
Ithaca Journal (NY)
May 2, 2012

New York lost an estimated \$16.9 million in potential tobacco tax revenue during the first 28 months following a federal excise tax increase on cigarettes, small cigars and roll-your-own tobacco.

That's the finding of a new report released Wednesday by the Centers for Disease Control and Prevention, which said states collectively lost \$374 million in tobacco revenue from April 2009 to August 2011 because of a market shift to lower-priced pipe tobacco to make roll-your-own cigarettes.

Florida topped the list of states with lost revenue of more than \$63 million, followed by Texas at \$31.2 million and California at \$27.7 million.

New York ranked No. 4.

The Empire State has among the highest tobacco taxes in the nation with an excise tax of \$4.35 on a pack of cigarettes.

The market shift is traced to an April 2009 increase in the federal excise tax on a pack of cigarettes to \$1.06 a pack in April 2009 with a similar increase imposed on roll-your-own tobacco and small cigars.

The federal excise tax on roll-your-own tobacco increased to \$24.78 per pound, while the federal tax on pipe tobacco increased to only \$2.83 a pound.

That prompted many smoke shops to begin marketing lower priced pipe tobacco as "dual use" tobacco that can also be used for less-expensive roll-your-own-cigarettes.

Since then, a significant number of smokers have switched to pipe tobacco, often using roll-your-own machines located in neighborhood smoke shops that can produce a carton of cigarettes in about 8 minutes.

Roll-your-own machines are not as common in New York as some other states, but they have been installed in several smoke shops in Rochester; two in the Buffalo area in Depew and Lewiston; five in the Hudson Valley in New Rochelle, Nanuet, Garnerville, Newburgh and Kingston; two in New York City in Brooklyn and Staten Island; and one in Ithaca.

New Yorkers also have traveled to neighboring states to purchase cheaper cigarettes, including roll-your-own cigarettes.

Tim McAfee, director of the CDC's Office on Smoking and Health, said in an interview Wednesday that several states have tried to control the growth of roll-your-own machines by designating the stores that use them as manufacturers. But those proposals have been challenged in the courts.

McAfee said the switch to pipe tobacco undercuts the public health benefit of the higher taxes on cigarettes.

"The evidence shows that a 10 percent increase in the price of tobacco leads to a 4 percent reduction in consumption," McAfee said. "High prices have an even greater impact on kids and generally on lower-income smokers. Cigarette smokers who switch to roll-your-own because of the price differential may instead maintain their addiction with lower priced roll-your-own cigarettes. So we do think this source of cheap cigarettes is blunting the impact higher prices might otherwise have on preventing youth initiation, reducing consumption and prompting quit attempts."

Two weeks ago the Government Accountability Office issued a report recommending that Congress fix the tax disparity between pipe tobacco and other tobacco products.

The GAO estimated the federal revenue loss at \$615 million to \$1.1 billion between April 2009 and September 2011 due to a market shift toward lower priced pipe tobacco and large cigars.

The CDC report issued Wednesday did not include large cigars in its calculations. It estimated the federal revenue loss from the increase in pipe tobacco sales at \$985 million through August 2011.

Four Senate Democrats -- Sens. Tom Harkin of Iowa, Dick Durbin of Illinois, Frank Lautenberg of New Jersey and Richard Blumenthal of Connecticut -- issued a joint statement Wednesday criticizing tobacco companies. "Tobacco manufacturers have once again found a way to skirt the law in order to continue peddling their dangerous product," the senators stated.

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ROLL-YOUR-OWN SMOKES COST STATE TAX REVENUE

By Tom Precious
Buffalo News (NY)
May 3, 2012

New York State is losing millions of dollars in tax revenues by roll-your-own cigarette outlets selling loose tobacco at a lower tax rate usually reserved for pipe tobacco, federal officials warned Wednesday.

The U.S. Centers for Disease Control said the state lost nearly \$17 million in tobacco tax revenue in a 16-month period ending last August. Nationwide, all states were out nearly \$400 million and the federal government lost out on nearly \$1 billion.

The situation has likely only worsened in New York since last summer as more roll-your-own cigarettes are sold in tobacco shops — which health groups say skirts state law and will raise smoking rates because of the cheaper access to cigarettes.

Attorney General Eric Schneiderman recently acted on roll-your-own shops in New York City and the Syracuse area.

New York trailed only Florida, California and Texas in lost tobacco tax revenues under a practice in which roll-your-own shops sell pipe tobacco to make cigarettes at a tobacco tax level that is nearly \$22 per pound cheaper than loose tobacco.

The report's authors said the tax scheme employed by roll-your-own shops "blunts the public health impact excise tax increases would otherwise have on reducing tobacco use through higher prices."

The CDC report did not look at tax avoidance issues by smokers turning to cheap, roll-your-own cigarettes compared with taxable, brand-name sales.

"Certainly, given New York's high cigarette tax, the lost revenue due to people switching from manufactured cigarettes to roll-your-own is even greater than the loss reported here due to the pipe tobacco versus roll-your-own taxes," said Russell Sciandra, director of advocacy at the American Cancer Society in New York.

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\$31 MILLION IN UNINTENDED CONSEQUENCES

By Jeannie Kever

Houston Chronicle Blog (TX)

May 2, 2012

Texas lost \$31 million in sales tax revenues over a 17-month period as tobacco manufacturers took advantage of a change in federal tax laws to sell pipe tobacco – taxed at a lower rate — to people who roll their own cigarettes.

That added up to \$1.3 billion in lost state and federal revenue between April 2009 and August 2011, according to a report released Wednesday by the Centers for Disease Control and Prevention.

"It's fair to categorize it as an unintended consequence," said Michael A. Tynan, one of the report's authors.

Congress raised federal taxes on tobacco products in April 2009. Before that, taxes on pipe tobacco and roll-your-own tobacco were the same; the increase put roll-your-own tobacco on a par with manufactured cigarettes.

The goal was simple. Make tobacco more expensive, and fewer people will use it.

"We've done numerous studies, and that's absolutely clear," said Darryl Konter, a spokesman for the CDC. "A 10 percent increase in price results in a 4 percent overall decline in consumption."

Among teen-age smokers, the drop is 7 percent.

But the increase in federal taxes didn't extend to pipe tobacco, and manufacturers simply repackaged it as "dual purpose" tobacco, making it less expensive than both manufactured cigarettes and traditional roll-your-own tobacco.

Pipe tobacco is coarser and more moist than roll-your-own tobacco, according to the report, but Tynan said the health impact is the same.

"It's not a healthy alternative," he said. "The 2010 Surgeon General's report concluded that all combustible tobacco is unhealthy and dangerous."

Texas was second only to Florida in the projected loss of state sales tax revenue. Florida lost an estimated \$63 million, according to the report.

Originally published here: <http://blog.chron.com/medblog/2012/05/31-million-in-unintended-consequences/>

TN MAY BOOST TAX ON 'ROLL-YOUR-OWN' CIGARETTES

By Elizabeth Bewley

The Tennessean

May 03, 2012

Loophole has cost state \$4 million in revenue since 2009

Dozens of Tennessee tobacco shops have taken advantage of a tax loophole that allows them to sell roll-your-own cigarettes at a deep discount, but those days may be drawing to a close.

Tennessee lawmakers this week passed a bill that would require roll-your-own retailers to pay a licensing fee and a cigarette tax on each carton they sell.

And proposals in Congress, including one sponsored by U.S. Rep. Diane Black, R-Gallatin, would stymie the growth of roll-your-own machines by designating the smoke shops that house them as manufacturers.

The loophole has cost Tennessee almost \$4 million in lost tax revenue since 2009, according to a report released by the Centers for Disease Control and Prevention.

Jason Wells, manager of the Cigar Parlor and Roll Smokes and Go in Hendersonville, says state and federal legislation could shut down his business and hurt the recession-weary customers who benefit from the lower prices of the roll-your-own smokes he and others sell.

Tax savings allow the Cigar Parlor to charge just under \$22, plus tax of about \$2, for a carton of 200 cigarettes, less than half the cost of a carton of Marlboros.

"These are very profitable machines," he said of the two \$32,500 roll-your-own machines at the Cigar Parlor. "They give the consumer a choice, which is nice."

The popularity of roll-your-own cigarettes has shot up since federal tobacco taxes increased three years ago.

Congress raised taxes on roll-your-own tobacco and packs of cigarettes in April 2009 and enacted a smaller tax increase for pipe tobacco, which has become a cheaper substitute for roll-your-own tobacco.

Since then, monthly sales of pipe tobacco have increased 12-fold, from about 240,000 pounds in January 2009 to more than 3 million pounds in September 2011, the nonpartisan Government Accountability Office said.

As a result, states have lost \$374 million in revenue, including Tennessee's \$3.95 million, according to the CDC report.

State lawmakers passed a bill earlier this week that would require smoke shops to pay an annual licensing fee of \$500 for each roll-your-own machine. The bill also would force the shops to pay a cigarette tax similar to the 3-cent-per-cigarette tax that's levied on manufactured cigarettes. Such a move could increase the price of roll-your-own cigarettes by about \$6 per carton, retailers say.

If Gov. Bill Haslam signs the bill into law, businesses would have to comply by October 2013.

Federal lawmakers also are pushing several proposals. A House measure sponsored by Black would classify retailers that have roll-your-own machines as manufacturers, in effect, imposing extra costs and regulations on the shops. Black has 59 co-sponsors for that bill, including Republican Rep. Marsha Blackburn of Brentwood.

A similar provision was included in the transportation reauthorization bill that passed the U.S. Senate in March.

Lobbyists for big tobacco companies have supported such measures, arguing that smoke shops using the machines have an unfair price advantage. Black and Blackburn each have received campaign contributions from the tobacco industry, as have Tennessee Sen. Bob Corker, R-Chattanooga, and U.S. Reps. Stephen Fincher, Scott DesJarlais and Jim Cooper, according to the Center for Responsive Politics, which analyzes campaign finance data.

Blackburn ranks No. 11 among House recipients of contributions from the tobacco industry, having received \$15,000 from tobacco companies since the 2010 elections, according to that data. Campaign finance reports show Black has received \$4,500 from Altria Group, formerly named Philip Morris Companies, during this election cycle.

Black said her bill aims to make sure that everyone "is playing by the same rules."

Legislation to raise costs is "the worst thing" that could happen to small smoke shops, counters Wells. "It could absolutely put us out of business," he said.

Originally published here: <http://www.tennessean.com/article/20120503/BUSINESS01/305030034/TN-may-boost-tax-roll-your-own-cigarettes>

TENN. BILLS THAT COULD SOON BECOME LAW

CBS 8 –Knoxville, Tennessee

May 2, 2012

Local 8 News has been following the actions of the general assembly from the beginning, to keep you informed.

No state agency could provide a full list of bills that are on Governor Haslam's desk; not his office, not the House, not the Senate.

Some bills are still waiting for the speakers signatures, before Haslam gets a say-so.

But, there are still some bills we know are now up to the Governor.

One of the big talkers this year, drug testing welfare recipients, HB 2725 / SB 2580. The latest amendment requires the Department of Human Services to use a program of "suspicion-based" drug testing for each eligible applicant for "temporary assistance for needy families."

A positive drug test would keep someone from getting benefits for 6 months, but the children of someone who fails the drug test would still be eligible for benefits.

Roll-your-own cigarette retailers could soon pay out even more, HB 3606 / SB 3316. It would require retailers to pay a cigarette tax and an annual \$500 licensing fee for each roll-your-own machine used.

The bill also limits retailers to tobacco listed on a state directory. Lawmakers agreed the requirements would go into affect October 1, 2013.

Legislation banning teachers from promoting or condoning "gateway sexual activity" is headed to Haslam, HB 3621 / SB 3310. It would require all state sexual education classes to "exclusively and emphatically" promote abstinence.

The bill does not specifically define what is considered "gateway sexual activity" begging the question from many, does that mean hugging? Holding hands?

It's now up to governor Haslam to sign off on legislation that would extend murder and assault laws to a fetus, even in the earliest stages of pregnancy, HB 3517 / SB 3412.

The bill would allow prosecutors to add a second murder or assault charge when a pregnant woman is harmed. The legislation clarifies that it does not apply to a medical or surgical procedure the pregnant woman consents to.

Another big talker this legislative session is the "Life Defense Act," HB 3808 / SB 3323. The bill adds some restrictions on abortions.

It would limit a physician to perform an abortion, only if they have admitting privileges at a licensed hospital in that county, or an adjacent county.

Originally published here:

http://www.volunteertv.com/news/headlines/Tenn_bills_that_could_soon_become_law_149910745.html?ref=745

ROLL-YOUR-OWN CIGARETTE BILL HEADED TO TENN. GOV

By The Associated Press

CBS News

May, 2 2012

A proposal in Tennessee that would require roll-your-own cigarette retailers to pay a licensing fee and tax and adhere to certain restrictions is headed to the governor for his consideration.

The measure was sent to Gov. Bill Haslam on Tuesday after the Senate voted 24-2 to agree with changes made by the House.

Pipe tobacco, a popular product of roll-your-own retailers, is not listed on the state attorney general's directory of tobaccos. The proposal would require tobacco the retailers use in their machines to come from the directory.

It would also require the retailers to pay a cigarette tax and an annual \$500 licensing fee for each roll-your-own machine used.

One issue that needed to be worked out was how long businesses would have to meet the requirements. Lawmakers agreed on Oct. 1, 2013.

Originally published here: http://www.cbsnews.com/8301-505245_162-57426077/roll-your-own-cigarette-bill-headed-to-tenn-gov/

MIDDLEBORO CONSIDERS TOBACCO SALES BAN FOR PHARMACIES

By Eileen Reece

Taunton Gazette (MA)

May 2, 2012

Number of adult smokers in town is higher than state average

Selectmen on Monday reviewed proposed changes in the town's tobacco regulations that would ban the sale of tobacco products in pharmacies and increase fines for tobacco violations.

The pharmacies affected would be Rite Aid, CVS and Hannaford's supermarket, which has a pharmacy.

Selectmen voted unanimously to take it under advisement and discuss the changes on May 21 after they contact the three establishments for their input on the proposed ban.

The Middleboro Youth Advocates updated the regulations along with Health Officer Jeanne Spalding. The regulations were last updated in April 2000.

Middleboro Youth Advocates representatives Elizabeth Bell and Casey Schnetzer, both Middleboro High School students, made a presentation and argued that the sale of tobacco products in pharmacies should be banned because they are viewed as a health care institution.

Judy Coykendall, program manager for the Tobacco-Free Community Partnership out of New Bedford, said 28 communities have voted to ban the sale of tobacco products in pharmacies. Coykendall said retailers have not objected to the ban and, on average, tobacco sales represent one percent of their sales.

The number of adult smokers in Middleboro is 18.6 percent, which is higher than the state average of 14.1 percent.

Though cigarette sales are declining, the sale of cigars has increased, according to Coykendall, who was particularly concerned with the sale of flavored cigars geared to youth.

Selectman Stephen J. McKinnon said he was concerned the regulation would restrict what vendors can sell in their stores.

"It borderlines on constitutional issues," said McKinnon who preferred to see an increase in sting operations to catch violators who sell cigarettes to minors.

"I'm all for it," said selectmen Vice Chairman Allin Frawley of the change in regulation. "You buy guns, you go to a gun store," he said noting tobacco products should not be sold in a health store.

Schnetzer said her objective is to keep tobacco products away from youth as statistics show 90 percent of smokers start before the age of 18.

The regulations would also ban "roll-your-own" machines that enable someone to roll their own cigarettes, which reduces the cost of a cigarette to 20 cents.

Stores that violate tobacco regulations could face the following fines: first offense, \$100 fine and seven-day suspension; second offense, \$200 fine and up to 15-day suspension; third offense, \$300 fine and 30-day suspension.

In other action, selectmen:

Voted unanimously to deny an application to Barbara and Ralph Holton owners of the Tispaquin Family Campground, 68 Purchase St., for a family type campground permit.

The Holtons have been operating without a permit since May 2002 when their last license was issued for a maximum of 57 sites, including the "safari field."

In a long legal battle with the town, the Holtons, who have owned the campground since 1984, said they are grandfathered in to have 113 sites.

The selectmen argued their sites are limited by a vote of the Zoning Board of Appeals and that their septic system must be upgraded. On Monday, the Holtons said they submitted plans for that upgrade. Selectmen also voted to approve a request of The Cabin restaurant, Route 28, to extend the hours to serve alcohol so that they could open on Mondays.

Originally published here: <http://www.tauntingazette.com/news/x1942602705/Middleboro-considers-tobacco-sales-ban-for-pharmacies#ixzz1togRWGtp>

GREGOIRE SIGNS BUDGET SAYING TAX HIKE NEEDED

By Jerry Cornfield
The Herald (WA)
May, 2 2012

Gov. Chris Gregoire signed what she hoped will be her last budget on Wednesday, breathed a sigh of relief then said her successor must come up with as much as \$1 billion in new revenue for public schools.

Gregoire signed the blueprint for rebalancing the state budget hammered out in a grueling and caustic special session that ended last month.

It combines spending cuts, transfers from special accounts and a small sum of revenue from new taxes to paper over a \$500 million shortfall in the remaining 13 months of the current budget.

The final ledger sheet shows \$311 million in reserves of which \$265 million is in a constitutionally protected rainy day account and the rest available for unseen emergencies.

"This supplemental budget is lean, but it is not mean and for that I am very grateful," Gregoire said.

A point of pride for her and lawmakers in both political parties is the spending plan does not trim funding for the state's public schools and colleges.

However, it does not increase money for basic education programs in elementary and secondary schools as the state Supreme Court directed in a ruling issued earlier this year. Complying with the court's order will cost an estimated \$1 billion in the next budget, Gregoire said.

Come December, in one of her final acts as governor, she will send lawmakers an opening proposal for the state's next budget, and she didn't rule out tucking in a tax increase to cover the tab.

"There simply is not enough money in the revenue stream," she said. "We're trying to fit a size 12 foot into a size 8 shoe."

That puts her at odds with the two leading candidates for governor, Democrat Jay Inslee and Republican Rob McKenna. Both men oppose new taxes to fund schools and contend the dollars needed to satisfy the court ruling can be generated by efficiencies in government and a growing economy.

"To the candidates that are running, we can say 'no new revenue,'" she said. "The reality is we cannot live up to our responsibilities without new revenue. That is my opinion. It is sound. I am not playing games. It's the truth."

Washington's outgoing Democratic governor also signed a stack of hotly-contested reform bills, most of which didn't get approved by lawmakers until an all-nighter April 11 ended their extra session after 31 days.

Among them is a first-in-the-nation requirement for writing state budgets in balance with expected tax collections over a four-year period. She also signed bills to trim early retirement payouts for state workers hired on or after May 1, 2013 and to improve and equalize health insurance offerings among employees in the state's nearly 300 public school districts.

Also Wednesday, Gregoire signed a law which will increase the taxes paid by purchasers of roll-your-own cigarettes starting July 1.

Barring any downturn in the economy, Wednesday marked the final time Gregoire puts her signature on a piece of legislation.

She made light of the moment too.

"Hopefully I've read my last bill, signed my last budget and now I'm going to go away," she said.

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LEGISLATURE EXPANDS CIGARETTE TAX TO INCLUDE 'ROLL-YOUR-OWN' SELLERS

Missouri News Horizon

May, 2 2012

The Tennessee Legislature has passed a bill to require roll-your-own tobacco shops and their customers to pay more in taxes, but they're refusing to call the plan a tax increase.

The measure, HB1054/SB1738, would require owners of corner stores that offer roll-your-own cigarette services to pay a \$500-per-machine licensing fee, pay the same tax per pack as pre-rolled cigarettes, and pay into a massive settlement between cigarette makers and the states. Lawmakers say they are concerned about loss of revenues and want the state's tax policy to be fair.

The “crux of the argument” for this bill is that, although the roll-your-own cigarettes are nearly identical to prepackaged cigarettes, they are taxed at a much lower rate, meaning that they are sold for a much lower price, said Rep. Steve McDaniel, R-Parkers Crossroads, on the House floor, April 30.

“The conventional cigarettes are taxed under the agreement, the Federal MSA directory, the Attorney General’s directory, and created the escrow account and the payments – we get over \$140 million a year, because of the lawsuit that was settled some time ago,” McDaniel said. “We could endanger, I believe, that agreement, where we’re getting that money into our state system, into our revenues.”

McDaniel was referring to a settlement reached in 1998 between the top four cigarette companies and the states. The companies were required to end certain marketing techniques and pay a minimum of \$206 billion to the states over a 25-year period. The agreement also made the companies exempt from future private liability suits that might be brought against them in regards to harm caused by tobacco use.

The bill passed the House 68-22.

While the House bill passed with little-to-no discussion, it was a different story in the Senate.

“The dilemma we have as a state — and we’re not the only state that’s addressing this — is how do we treat these cigarettes that are manufactured, that are made in a machine in eight minutes, and you walk out of the store” said Sen. Jack Johnson, R-Franklin, sponsor of the bill. “They’re not paying the (Tobacco) Master Settlement Agreement fees, they’re not paying the \$0.62 state tax, and they’re not paying federal tax on these cigarettes.”

Much of the debate on the Senate floor wasn’t regarding the regulation of commerce or revenue lost by the state, but about the length of time to give businesses to adapt and comply with the measure. The Senate settled on a compliance date of July 1, 2013.

Sen. Bill Ketron, R-Murfreesboro, said the state should be more aggressive and bring the money in starting in January of that year. His amendment failed.

“In the meantime, the state of Tennessee is losing a lot of revenue from taxes, as well as your other convenience stores in your district are losing business, because people are going to be driven to the location where they can get cheaper cigarettes,” Ketron said.

Ketron admitted to looking for competitive advantages when he himself ran a convenience store, including buying his own machine to produce ice himself. He said that store owners who have roll-your-own machines, which cost \$30,000, have an unfair advantage.

“This is not a tax bill. All it’s doing is leveling the playing field. They can still sell these cigarettes cheaper than what your name-brand cigarettes will be sold for by the carton.”

Sen. Bo Watson, R-Hixson, compared this legislative issue to last year’s Amazon bill and recommended more time to allow the affected shop proprietors to comply.

“I think if we were truly advocates for small business, we would give them the same courtesy that we’ve given to large business and allow them more time to adapt,” Watson said.

The Senate passed the bill 26-5 on April 25.

The House held steady with Jan. 1, 2014 as the effective date for the bill, despite the Senate's amendment changing the date. Following a conference committee between the chambers, they agreed upon yet another compromise, officially setting the effective date for Oct. 1, 2013.

The bill now travels to the governor for his signature.

U.S. Rep. Diane Black, R-Tenn., recently introduced a measure in Congress to label roll-your-own tobacco shops as manufacturers, according to the Wall Street Journal.

Originally published here: <http://missouri-news.org/midwest-news/tennessee/legislature-expands-cigarette-tax-to-include-roll-your-own-sellers/16863>