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DeLEO: HOUSE BUDGET WON'T INCLUDE NEW TAXES OR FEE HIKES

By Matt Murphy

State House News Service (Massachusetts)

February 8, 2012

House Speaker Robert DeLeo, in a speech to House members on Wednesday, plans to rule out using any new taxes or fees to balance next year's budget, an approach that could scuttle the cigarette tax hike and other targeted fee increases recommended by Gov. Deval Patrick.

"I hear time and time again from business leaders that predictability and consistency in the tax code are what's most important," DeLeo plans to say, according to his prepared remarks, promising a House Ways and Means Committee budget that does not rely on new taxes and fees.

Patrick's budget proposal for fiscal 2013 includes \$260 million in new revenue from a 50-cent increase in the cigarette tax, the application of the sales tax to candy and soda, an expansion of the bottle bill and other revenue-generating proposals.

DeLeo plans to tell his colleagues that any changes to revenue policy should be approached with extreme caution and should never be done piecemeal, suggesting changes to the tax code, if any, should be part of a broader package vetted by the Legislature.

A special commission is reviewing the state's long list of tax breaks and exemptions but there's no momentum on Beacon Hill behind any specific bill calling for a comprehensive tax code overhaul.

In a speech similar in tone to the State of the Commonwealth delivered last month by the governor, DeLeo also intends to congratulate his colleagues for helping pass laws that he said have helped Massachusetts emerge from the recession stronger than other states. He singles out municipal health care reform, pension reform and gaming legislation as victories that would create jobs and save money for the state and its municipalities.

Our success stands in direct contrast with the goings-on in Washington where too often progress is obstructed by political gamesmanship. And we don't want that to happen here," DeLeo plans to say.

DeLeo, who touted casino legislation as a way to create blue collar jobs, intends to recommit the House to improving the business climate for start-up companies and innovative businesses like Facebook in Massachusetts, lamenting that "innovators and entrepreneurs are packing up and leaving."

To Mark Zuckerberg, and other leaders of new companies, we want you here," DeLeo plans to say, expressing concern about "losing the innovation battle to other states."

House Republicans recently have expressed frustration with the pace of House initiatives aimed at job creation.

DeLeo also plans to express confidence that consensus can be built to reform the state's health care system to control costs while continuing to guarantee patients access to high quality of care, and to signal a willingness to work with the Patrick administration on better aligning community colleges with the workforce needs of employers.

On health care cost control, DeLeo hopes to develop a "well thought-out plan we can all be proud of."

Health care is extremely personal, DeLeo plans to say. "When we are at a time of need, we want to make sure we are able to get the very best care available. That will not change under any plan offered in this House."

CIGARETTE ROLLING MACHINE CONTROVERSY

Fox 25 (Boston, MA)

February 7, 2012 (UPDATED STORY FROM FEB. 5)

A controversial new machine is popping up in Bay State stores and it helps smokers roll their own cigarettes and makes lighting up a whole lot cheaper.

A pack of cigarettes goes for nearly \$10, with roughly \$2.50 in state taxes. The new "roll your own" machines eliminate the state tax. A carton of hand-rolled cigarettes costs one-third of the price of manufactured ones.

One distributor tells FOX 25 there is an estimated 50 machines currently operating in the state.

People FOX 25 spoke to stand on both sides of the issue.

Governor Deval Patrick has another idea. He wants to filter \$73 million into the state by adding 50 cents in taxes to every pack of cigarettes sold.

That would bring the taxes to more than \$3 per pack.

Video found here: <http://www.myfoxboston.com/dpp/news/local/cigarette-rolling-machine-controversy-20120207#ixzz1ltyybOv1>

ROLL-YOUR-OWN TOBACCO SHOPS IN SOUTH DAKOTA LEGISLATIVE SPOTLIGHT

By Bob Mercer

American News Service (South Dakota)

February 9, 2012

The Legislature is considering whether tobacco shops that offer machines for rolling your own cigarettes should be classified as manufacturers.

The change would mean the cigarettes made there would be subject to the same higher taxes as commercially marketed cigarettes in South Dakota starting July 1, 2014.

The House committee on state affairs gave its backing to the change on Wednesday on a 9-4 vote. The legislation, House Bill 1138, would be up for debate by the House of Representatives as soon as Friday afternoon.

People who buy pipe tobacco that can be used for rolling cigarettes currently pay \$2.39 of state taxes on a quantity sufficient to make a carton of cigarettes. The normal tax for a carton of commercial cigarettes is \$15.30.

“The loophole is a growing problem. It’s not good for South Dakota,” Rep. Justin Cronin, R-Gettysburg, said. He is the legislation’s prime sponsor.

Split testimony

Among the long list backing the change are the South Dakota Retailers Association, the state Revenue Department, the convenience stores organization and state Attorney General Marty Jackley. Another was former state legislator Garry Moore of Yankton, whose family is in the wholesale tobacco business.

Speaking against the legislation was Bob Riter, a Pierre lawyer representing the roll-your-own industry. Riter said there are lawsuits in other states.

“This matter is still going through the courts,” he said. “Let’s let that work its way out.”

Another former legislator, Kay Davis of Sioux Falls, testified in opposition. Davis said her family runs what she called smoke shops.

“We are not manufacturers. We only provide the original product,” she said.

Davis said people who buy tobacco in the stores can go home and spend several hours rolling cigarettes or wait their turn to use the machine at the shop. She referred to the finished product as “smokes.”

“I don’t call them cigarettes, because they’re made from pipe tobacco,” Davis said.

Other opponents who took the witness chair included Todd Florey of Watertown and Doug Backlund, who has a gas station in Mitchell and a tobacco store in Brookings. Backlund said 14 small businesses in South Dakota will be put out of business.

“I’m asking what you want us all to do. Go to work at Wal-mart?” Backlund told the legislators.

Related issue

One related issue is whether allowing the roll-your-own shops to operate without a manufacturer designation would violate the master settlement agreement reached between tobacco companies and state governments a decade ago for smoking-related damages.

Charles McGuigan, the chief deputy attorney general, said there hasn’t been a request for an official opinion on whether the roll-your-own shops are manufacturers.

“However, we have been analyzing the situation,” he said.

State lawyers began to discuss the issue among themselves during 2011 and contemplated enforcement action, according to McGuigan. He said that because of the master settlement agreement the attorney general feels an obligation to do something but there hasn’t been a decision on what should be done.

Rep. Peggy Gibson, D-Huron, tried to block the legislation, which she labeled as “premature.” But Cronin said people already can fill out a form at the tobacco shop and return later to pick up their rolled cigarettes.

House Democratic leader Bernie Hunhoff of Yankton said the smoke shops are designed as a tax dodge.

“This is the time to do it,” he said.

Giving two years for the stores to come into compliance or remove the machines seemed to help the legislation's acceptance among the committee members.

"I think that's more than fair," Rep. Gene Abdallah, R-Sioux Falls, said.

TOBACCO SHOP, WHOLESALER SUE COUNTY OVER NEW TAX

By Lisa Donovan

Chicago Sun-Times (Illinois)

February 8, 2012

A Chicago tobacco shop as well as a local wholesaler are trying to stamp out a new Cook County tax on cigars, snuff and loose tobacco, saying the tax language on the books is so "unconstitutionally vague" that "you'd have to hire a fortune teller" to determine its meaning.

Arangold Corp., a tobacco wholesaler in suburban Northbrook, and Loop-based retailer Iwan Ries Co. recently filed a lawsuit in Cook County Circuit Court asking a judge to halt the tax, which kicks in March 1.

The new tax — an expansion of the cigarette tax — was approved by the Cook County Board as part of the larger 2012 budget and was expected to bring in \$9.6 million this year for the cash-strapped government.

The lawsuit filed against Cook County and Revenue Director Zahra Ali calls the tax unconstitutional for a number of reasons, according to legal papers filed in circuit court, including when the tax is imposed. The attorney for the company questions whether the tax is imposed when the wholesaler receives a shipment or at the time it's sold to the consumer.

"It's so vague and indefinite, no one knows how it works. You'd have to hire a fortune teller," said Stanley Kaminski, the Chicago attorney representing the companies. "We can't have people guessing at how to pay the tax, especially if they're going to face a penalty. So we're asking a judge to stop enforcement of the tax and if a court does find the tax is illegal to stop enforcement until which [time] the county makes it legal."

The tax also violates the Illinois and U.S. constitutions because it's imposed on tobacco sold and shipped across state and U.S. borders, Kaminski said.

Owen Kilmer, a spokesman for Cook County Board President Toni Preckwinkle, said the office hadn't seen a copy of the lawsuit.

"We believe the ordinance as written is able to withstand a legal challenge," Kilmer said. "We worked closely with tobacco industry associations, as well as individual distributors and manufacturers, after we introduced our budget and throughout the implementation process."