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Revenue to Begin Enforcement of Roll Your Own (RYO) Cigarette Machines

Federal law says RYO machines are manufacturing

The Wisconsin Department of Revenue (DOR) will immediately begin to notify roll your own (RYO) cigarette retailers that they must follow state and federal laws and regulations if operating a RYO machine. According to federal and state law, if a retailer or the retailer's customer operates a RYO machine on the retailer's premises to make cigarettes with loose tobacco, the retailer is a cigarette manufacturer. Under state law, such a retailer is also a distributor.

Wisconsin is moving forward with enforcement efforts after RW Petersen, LLC, et. al. (RW Petersen) withdrew its lawsuit against DOR in July as a result of federal legislation signed into law designating RYO machine operations as manufacturing, (it was signed into law as part of a transportation bill). On Monday, the U.S. Sixth Circuit Court of Appeals ruled that owners of RYO machines could be regulated as manufacturers under federal law and vacated an injunction that had been issued by a lower court. The Sixth Circuit's action allowed the federal government to begin enforcing the law.

Last October, RW Petersen asked Dane County Circuit Court to prohibit DOR from treating retailers with RYO machines as manufacturers. The circuit court granted a preliminary restraining order against DOR in October 2011, and then later issued a temporary injunction in February 2012. The injunction was vacated on July 20, 2012.

The Department is taking the necessary steps to protect responsible small businesses that are following the state and federal laws and regulations. The Department of Revenue strives to enforce laws equitably to ensure businesses operate on a level-playing field.

The Department will be verifying that retailers operating RYO machines have either:

- Obtained necessary permits and affixed cigarette tax stamps on all cigarette packages leaving the premises, or
- Removed the RYO machines from their premises.

Failure to comply could result in fines, penalties, permit revocation, imprisonment, and/or seizure of the tobacco and other personal property used in this activity.

If anyone is aware of any retailer with a RYO machine who may not have complied with the above requirements, they should contact DOR's Alcohol & Tobacco Enforcement Unit at (608) 266-6757 or DORAlcohol&TobaccoEnforcement@revenue.wi.gov.