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Mayor burns contraband cigarettes

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CULBERTSON - A thwarted effort to smuggle tax-free cigarettes over the North Dakota border went up in smoke in downtown Culbertson.

Peeved at an attempt by two men to dodge increased state taxes on cigarette sales, Mayor Gordon Oelkers dug a pit on Main Street, dumped in 342 packs of contraband cigarettes seized in the bust and set them aflame.

Although only a handful of people turned out for the Friday morning bonfire, fueled by 6,840 cigarettes, Oelkers says he hoped the stunt sent a message to those who would try to skirt the tax.

Montana now has the third-highest cigarette tax in the nation, roughly three times higher than most surrounding states.

The fee has risen from 18 cents per pack to \$1.70 in two years.

"I'm the mayor of town and a business owner, and as a business owner, if there's a Montana tax you have to pay it. That's where I was coming from," Oelkers said. "Everybody goes out of state to buy things, grocery gas and cigarettes also now...We're losing business in these border towns because of that."

The cigarettes, worth roughly \$1,900, were seized April 9 when two Glasgow men, Charlie Maag and James Whitish, were pulled over in a routine traffic stop on Highway 2 in Roosevelt County.

A highway patrol officer found 38 cartons of untaxed cigarettes in the car that the men had bought at a tax-free smoke stand in Trenton, N.D., which is on Indian trust land.

Before Oelkers burned the contraband, officials took a pack from each carton to test whether the cigarettes actually contained the brand-name tobacco they were packaged as.

About 15 minutes south of Williston, Trenton, N.D., is just over a two-hour drive from Culbertson.

Under current state statute, it's illegal to transport any quantity of cigarettes that don't have a state tax insignia, although the law is rarely enforced for those with tobacco for personal use.

Prosecutors alleged the men were transporting the cigarettes for a number of people in the Glasgow area, including Wade and Marisa Brockmeier, whose car they were driving.

The Brockmeiers operate the Nickel Bills Bar in Glasgow.

"The Brockmeiers knew what their vehicle was being used for," said County Attorney Fred Hofman. "They admitted that."

Maag and Whitish pleaded guilty to misdemeanor charges of transporting cigarettes without a tax insignia.

The charges carry a maximum penalty of \$500 and six months in jail and a minimum of \$100 and 30 days in jail.

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However, under a deferred sentence, the men will serve no jail time, and the charges will be erased from their record after a year.

The men each were given a \$500 fine.

"I didn't feel like throwing someone in jail for what a lot of people didn't even realize was a crime," Hofman said.

The Brockmeiers, under a deferred prosecution agreement, were not convicted.

In order to keep their vehicle, they agreed to donate \$500 each to local law enforcement.

State law currently allows authorities to seize any vehicle used to transport illegal cigarettes, even one pack.

For years the transport laws were ignored.

But the tax hikes have created new incentive to smuggle cigarettes across the border.

The Legislature took several steps to address the problem in its recent session.

House Bill 687, which takes effect in July, stiffens penalties for those importing large quantities of cigarettes, but drops harsh fines and jail terms for those caught with cigarettes for personal use.

The law allows individuals to bring up to three cartons of cigarettes across the border, said Neil Peterson, administrator of the Department of Revenue's Customer Service Division.

A carton of cigarette contains 10 packs.

The law also raises to \$1,000 the amount of contraband cigarettes needed before authorities can seize a vehicle.

On the tougher side, the law makes a second smuggling offense a felony.

It also gives the state more power to go after Internet cigarette sales and organized smuggling operations, Peterson said.

"One of the common misconceptions is that it's alright to purchase cigarettes over the Internet," Peterson said. "It's not."

In House Bill 2, the state's major budget bill, the Legislature also approved funding for two new auditors, a new attorney and an administrative support staffer to help the Department of Revenue track illegal cigarette sales.

The Justice Department will get two new investigators for tobacco investigations, Peterson said.

The focus is on smugglers importing cigarettes for resale, not casual smokers crossing the border, Peterson said.

"Overall, I think most people in Montana are law-abiding folks, and they're not interested in breaking the law."

PHOTO CAPTION

Cigarettes burn in downtown Culbertson recently as the mayor makes his point that illegally transporting cigarettes will not be tolerated.
PHOTO COURTESY OF FRED HOFMAN

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MONTANA YOUTH ACCESS TO TOBACCO

Raw SYNAR Inspection Results for federal fiscal year 2005-2006 (as of 9/06/06)

	NUMBER OF VIOLATIONS	NUMBER OF COMPLIANCES	COMPLIANCE RATE (TARGET IS 80%)
STATEWIDE TOTALS	38	455	92.29%

Source: The HELP Committee; Questions should be directed to Krista Solomon or Laura Holmlund at 406-265-8206.

Testimony before the House Business Committee on House Bill 654

Hello, my name is Pat Roylance and I would like to thank the chairman and members of this committee for taking the time to hear our testimony today.

I am the Director of Marketing for Sutey Oil Co. We operate 14 Thriftway Super Stops convenience stores through out Southwestern Montana.

As a retailer, I can assure you, that most retailers have no desire to sell any age restricted product to a customer who is underage. We spend thousands of dollars each year to train employees on the laws for the sale of tobacco, buying tools to help them identify the customers correct age, and in ours, and many other companies, paying bonuses to employees who pass the state compliance checks. Those that fail are fined by the state, suspended pending investigation and most times terminated. Our team directors spend one to two hours every day watching video systems to see that our employees are following our company policy of checking ID's for any customer that looks to be under the age of 30. Any team associate observed not using our scanning equipment, which our company purchased this year at a cost of over \$11,000, is documented.

This bill penalizes legal customers who enjoy the many different flavored products and retailers who work very hard to sell legal products only to customers who are legally entitled to purchase them. It won't stop the many different flavored products from coming into the state, or children from getting the product. The internet is a very comfortable medium for the youth of today, and any kid that wants to go on the net to purchase tobacco can figure out how to get it. Studies have shown that many underage people get their tobacco and alcohol from family members or friends who are of legal age to purchase the product. However, our older legal customers will be greatly inconvenienced if they are forced to change the brand and flavor they have come to enjoy, or go on the internet or out of state to purchase it.

This bill also ends up penalizing the State of Montana. How many people, who purchase tobacco over the internet, actually pay the state taxes owed? How many web sites report the names and addresses of their customers to the state, and how many of those same web sites follow federal and state laws, and have a way to verify the age of the customers who ordered product from them?

In the end, this is just a feel good bill, but it isn't really going to do much to stop kids from trying tobacco for the first time. The key to stopping youth tobacco use is to educate, not legislate. Let's keep working as a team between state government, our schools, law enforcement, and retail to keep kids from getting their hands on tobacco. However, for that to work, then everyone has to do his or her part. Retailers need to keep working with their employees to see that they don't sell to underage kids. Schools need to keep talking about the health issues of tobacco, and the highly addictive nature of the product, and law enforcement needs to penalize the kids who get caught using tobacco every time they get caught, not just after the second, third, fourth, or who knows how

many times, they have been warned. The penalty needs to be one that the kids themselves are going to have to deal with, not just a fine that Mom and Dad will grumble about, but pay. In addition, the state needs to keep working with other states to stop the websites that keep flooding our state with illegal, untaxed product.

Stopping the sale of a product that is legal throughout the country, to customers who are of legal age to use it, isn't the answer. You only hurt retailers who depend on the sale of tobacco for part of their profitability and consumers who legally enjoy a variety of flavors and brands for their tobacco of choice. I urge you to vote against this bill.

Pat Roylance
Director of Marketing
Sutey Oil Co/Thriftway Super Stops