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**MAYOR BLOOMBERG ANNOUNCES SUIT AGAINST “ROLL-YOUR-OWN”
CIGARETTE BUSINESSES EVADING TAXES**

Stores Claim to Neither Manufacture nor Sell Cigarettes, Yet Customers Walk Out of Stores with Finished Cigarettes without Paying Full Taxes

Mayor Michael R. Bloomberg announced today the filing of a lawsuit against Island Smokes LLC and Island Smokes III LLC, businesses that evade cigarette taxes by providing customers with loose tobacco, tubes of cigarette paper and access to machinery that instantly produces finished cigarettes for the customer onsite. These “roll-your-own” businesses sell cigarettes in disregard of tax and other regulatory statutes applicable to cigarettes, claiming that the business owners do not sell cigarettes, but merely “facilitate” the customers’ assembly of the cigarettes themselves. The City’s suit, filed in the Federal District Court for the Southern District of New York, charges that Island Smokes’ businesses in Manhattan and Staten Island, along with their owners and employees, violate the Federal Contraband Cigarette Trafficking Act and the New York State Cigarette Marketing Standards Act by selling cigarettes on which the required taxes have not been paid. The suit also alleges that the defendants cause a public nuisance by, among other things, selling cigarettes that have not been certified as “fire-safe” as required by New York State law.

“They are trying to get around the law by claiming they’re not in the business of selling cigarettes when they clearly are,” said Mayor Bloomberg. “Most businesses abide by the law, play by the rules and pay their taxes. We are not going to allow some businesses to skirt the law and we will ensure the playing field is level. They are cheating other businesses out of customers and attempting to illegally dilute one of our strongest smoking deterrents.”

“This suit is a powerful means to halt illegal cigarette production – and an important step in letting businesses know they can’t invent loopholes to skirt New York City’s tough laws,” said Corporation Counsel Michael A. Cardozo.

“Although we are making great progress against smoking, bringing our smoking rate to an all-time low of 14 percent, it’s still the leading cause of premature death in our city,” said Department of Mental Health and Hygiene Commissioner Dr. Thomas Farley. “Those who sell

(more)

and those who buy tobacco products must follow the laws that protect the health of New Yorkers.”

“The Department of Finance and its Sheriff’s Office Division of Tax Enforcement is committed to coming after anyone violating cigarette tax regulations,” said Department of Finance Commissioner David M. Frankel. “This is making those who knowingly flout the law nervous. Here, Island Smokes has attempted to find loopholes in the law to operate below the radar, and we will not tolerate it.”



As described by Fraud Investigators with the Sheriff’s Office, Division of Tax Enforcement, customers at Island Smokes’ two locations purchase loose tobacco and packages of cigarette paper tubes with attached filters. Store employees then assist customers in making cigarettes on machines located in and owned or leased by the store. The machines fill the paper tubes with compacted tobacco to produce completed cigarettes, which the customers then pay for by the pack or the carton. Despite claiming that it neither manufactures nor sells cigarettes, Island Smokes advertises itself as “the first full-service natural and discount cigarette shop in the tri-state area,” offering “cartons of all-natural cigarettes.”

Sales of non-taxed cigarettes deprive the City of millions of dollars in lost cigarette tax revenues, hurt law-abiding small businesses and undercut public health measures designed to discourage smoking. The City’s lawsuit against Island Smokes seeks an injunction to stop the defendants from continuing their illegal sale, distribution, and advertising of non-taxed cigarettes, as well as compensation for the tax revenue lost by the City as a result of Island Smokes’ unlawful activities. The City’s action was taken as Island Smokes’ owners have made public statements that they intended to open ten more locations throughout the city “imminently.”

In addition, earlier this week, the U.S. District Court for the Southern District of New York dismissed a challenge to the City’s law prohibiting flavored smokeless tobacco. The City’s law prohibits the sale of flavored tobacco products throughout the five boroughs, except in tobacco bars. The City Council was instrumental in efforts involving the flavored tobacco ban, and Judge Colleen McMahon upheld the City’s ban. The plaintiffs, manufacturers and distributors of smokeless tobacco products, claimed that because federal law regulates various aspects of the sale and use of tobacco products, the City was “pre-empted” from adopting its restrictions on the sale of flavored tobacco. However, in a comprehensive decision Tuesday, the Court rejected that argument, finding that “[w]ith respect to regulations relating to, or even prohibiting sales of tobacco products, local governments are free to go above any federal floor set by either the [federal statute] or by the FDA acting pursuant to it.”

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