



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

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Press Release

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For Immediate Release

**MAYOR BLOOMBERG ANNOUNCES SUIT AGAINST
TWO MORE “ROLL-YOUR-OWN” CIGARETTE BUSINESSES
EVADING TAXES -- AND SHUTDOWN OF ANOTHER**

***STORES CLAIM THEY DO NOT SELL CIGARETTES, YET CUSTOMERS WALK OUT OF STORES
WITH FINISHED CIGARETTES, WITHOUT PAYING FULL TAXES***

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New York, Feb. 6, 2012 – Mayor Michael R. Bloomberg and the New York City Law Department announced today the filing of a lawsuit against City Smokes, located at 2695 Coney Island Avenue in Brooklyn, and Victory Smoke Shop, at 1765 Victory Boulevard in Staten Island, 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 businesses do not sell cigarettes, but merely facilitate the customers’ assembly of the cigarettes. Another such business, New York Smokes, at 1250 Hylan Boulevard in Staten Island, has entered into a settlement with the City in which it has agreed to shut down. A prior suit, filed in November of last year by the City against the roll-your-own business Island Smokes, resulted in a court-ordered consent decree in December that shut those stores down.

The City’s suit against City Smokes and Victory Smoke Shop, filed in the Federal District Court for the Southern District of New York, charges that these businesses, 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.

“These legal actions are part of our ongoing efforts against businesses that think they can invent loopholes to skirt New York City’s tough cigarette laws,” said Corporation Counsel Michael A. Cardozo. “The City will enforce those laws vigorously.”

“Roll-your-own cigarette shops are avoiding the life-saving policy of taxing cigarettes,” said Health Commissioner Dr. Thomas Farley. “Cigarette taxes and other tobacco control policies have helped bring New York City’s smoking rate to an all-time low of 14 percent. However, smoking is still the leading cause of premature death in our city. Lives are at risk when we allow businesses to undermine laws that protect health.”

“The Department of Finance and its Sheriff’s Office are committed to coming after anyone violating cigarette tax regulations,” said New York City Finance Commissioner David Frankel. “There are no loopholes. We will find you and hold you accountable to the fullest extent of the law.”

As described by investigators with the Sheriff's Office, Division of Tax Enforcement, customers at City Smokes and Victory Smoke Shop 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 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 not to sell cigarettes, City Smokes and Victory Smoke Shop advertise "All-Natural Cigarettes" for "\$29.95 per carton."

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 City Smokes and Victory Smoke Shop 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 defendants' unlawful activities.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world. Tracing its roots back to the 1600's, the Department has an active caseload of 90,000 matters and transactions in 17 legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's 650 attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. For more information, please visit nyc.gov/law.

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