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Legislative Session Hits the Home Stretch

By: David Tatman

With just a few weeks remaining in the 2010 Regular Session of the Louisiana Legislature, the pace is picking up. As the temperatures rise outside, things are heating up inside at the Capitol. The session must end by 6:00 p.m. on June 21, 2010.

We scored a major legislative victory with the defeat of the smoking ban in bars and casinos. SB 348 by Sen. Marionneaux would have removed certain exemptions to the general prohibition of smoking in public places. This legislation passed through the Senate relatively easily. The legislation was deferred in the House Health and Welfare Committee and is likely dead for the session. We will continue to monitor other smoking ban issues in the closing weeks of the session.

Another major victory is the HB 760 by Rep. Lambert which would have created the Louisiana Beverage Container Law. This legislation was scheduled and debated several times in the House Natural Resources Committee. The legislation would have created a beverage bottle deposit and other requirements on beverage containers that would have been onerous for our members. The legislation was never reported from the House Natural Resources Committee and will likely not move this session. This will be an issue that we will need to continue to work on in future legislative sessions.

On the taxation front, HB 1280 by Rep. Rosalind Jones would have allowed local subdivisions to impose a tax on tobacco. This legislation was scheduled several times for a hearing in the House Ways and Means Committee. The bill was never debated in committee and is dead for the session. This is clearly an indication of things to come in 2011. It also provides a different twist on tobacco taxation that we may see again.

There are several bills moving through process to make herbal incense illegal. We are not sure which of those bills will become law, but it is certain that herbal incense will be made illegal during this legislative session. We will provide additional information on effective dates and other items as that information becomes available.

Thanks to all of you who contacted your legislators on legislation during the session. It makes a huge difference for legislators to hear from their constituents. We will continue to monitor the legislative activity as the session winds down. Please be prepared to act on calls to action.

Tobacco: The New Commodity for Criminals

Reprinted from ATF

Tobacco smuggling is a growing problem in U.S. that has turned into a lucrative business for criminals who trade cigarettes and other tobacco products on the black market.

February 2010 – an unsuspecting delivery driver made a stop at a popular discount retail store in Corona, California. He was there to replenish the store’s supply of cigarettes and other tobacco products but what he didn’t know is that lurking in the darkness were two men – watching, waiting for their moment to attack.

The two men confronted the truck driver as he stepped out the truck to ring the receiving bell. With guns drawn and pointed at the delivery man, the two men who were wearing ski masks ordered their victim to get into a waiting vehicle and drove away. The suspects left the delivery man in a neighborhood, miles away from the scene. Police were able to track down the tractor trailer but its contents – more than six thousand cigarettes worth more than \$250,000 were gone.

“Nationally it’s estimated \$5 billion in tax revenue annually is lost on the black market,” says Special Agent Chris Perez, Chief of the Alcohol and Tobacco Diversion Division for Bureau of Alcohol, Tobacco, Firearms and Explosives. “Some smugglers trade firearms and drugs for tobacco products while we’ve had cases of groups that will hire a hit-man to kill someone they see as competition.”

November 2009 – ATF special agents bust a ring of tobacco smugglers in Northern Virginia. Culminating a 14-month investigation, agents took 14 people into custody where the suspects allegedly paid or traded for more than \$8 million, nearly 40 firearms, and drugs to purchase 388,000 cartons — totaling more than 77 million contraband cigarettes — all in headed for retail stores in New York. But these weren’t just any kind of criminals, two of the suspects allegedly agreed to pay \$15,000 for a hit-man to kill a man and wife whom suspects believed were involved in stealing more than 15,000 cartons of contraband cigarettes.

The ongoing problem of tobacco diversion seems harmless on the surface but the people working the black market often resemble organized crime gangs of the past and the potential revenue loss, costs states billions annually – money that often times is never recovered and in extreme cases has been found to fund terrorist activity.

In the summer of 2002 Mohammed Hammoud was sentenced to 150 years in prison for using money he got from selling tobacco products on the black market in Charlotte, N.C., to fund a terrorist operation.

ATF is working diligently to investigate and prosecute tobacco traffickers but work the that goes into a tobacco diversion investigation is long and tedious, requires the U.S. Attorneys assistance, and because of the financial complexity of tobacco cases help from financial auditors – complex investigations which sometimes last years.

“Tobacco cases take time,” explains Perez. “It takes a while to gain the trust and infiltrate some of these organizations enough to track the money get to the people who are in charge.”

Here is how most tobacco smuggling rings work – legal entities pay significant taxes on their product, including \$1.01 per pack in Federal Excise Tax, from \$0.07 to \$4.25 per pack in state and local excise taxes, and typically \$0.50 per pack to a settlement fund for health care costs incurred by the states as a result of tobacco use by their citizens.

By selling non-tax paid cigarettes at tax paid prices or just below that price, criminal organizations are able to net a substantial profit. For example, purchasing legally taxed products in Virginia (a low excise tax state) and driving them to New York (a high excise tax state) for resale creates an immediate \$3.95 per pack profit margin. A single carton of cigarettes (10 packs) purchased in Virginia and sold in New York will yield about \$39.50 in profits; a single case (60 cartons) yields \$2,397 in profits and a single truckload (typically 800 cases) yields \$1,917,600.

“The bottom line is tobacco diversion is a crime,” says Perez. “It’s a crime that affects local economies through the loss of state tax revenue and a crime that affects communities because of the increasing violence tobacco smugglers are involved in.”

Mark your calendar!
2010 Annual Convention
November 10-12, 2010

Royal Sonesta Hotel
New Orleans, LA

Make plans to attend the 2010 Annual Convention
at the Royal Sonesta Hotel on November 10-12!

Registration brochures will be sent out soon.



Accommodations:

The room block discounted rate at the Royal Sonesta Hotel is \$139/night for a single or double room. The deadline for receiving this rate is **October 16, 2010**.

Reservations may be made by calling the Royal Sonesta Hotel at 504-586-0300. Please mention that you are with the Louisiana Association of Wholesalers to receive the special rate.

**Know Your
Legislators!**



**Representative
Robert Johnson**

Representative Robert Johnson serves District 28, which includes Avoyelles Parish. Rep. Johnson was elected in 2007 and sits on the following committees: Agriculture, Forestry, Aquaculture, and Rural Development; Civil Law and Procedure; and Health and Welfare.

Rep. Johnson received his B.A. in Political Science in 1997 and his J.D. in 2000 from Loyola University. Rep. Johnson resides in Marksville, LA.

*To contact Rep. Johnson:
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Thanks to everyone who attended the 2010 Legislative Reception!

The reception was held at the Camelot Club on Tuesday, May 4, 2010. We had a great turnout of Members, Associate Members, Legislators, and other regulatory officials.

