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State Seeks Stay on Roll Your Own Tobacco Injunction

OLYMPIA – June 28, 2012 – The State of Washington has asked the Washington State Supreme Court for an immediate stay of a lower court’s preliminary injunction barring implementation of a law requiring operators of roll-your-own cigarette machines to collect the same taxes due on other commercially manufactured cigarettes.

In a motion for a stay filed with the Supreme Court, attorneys for the Washington State Department of Revenue and Liquor Control Board argued that the order signed by Franklin County Superior Court Judge Bruce Spanner earlier today would cause irreparable harm to the state by allowing customers of the machines to continue to avoid paying cigarette taxes on the cigarettes made with commercial, roll-your-own machines. The state estimates that it faces losing between \$12 million and \$55 million a year.

Judge Spanner’s order doesn’t actually go into effect until the plaintiffs in the case post a \$200,000 bond, which they have yet to do, but the state is seeking swift action from the Supreme Court because the legislation is scheduled to take effect on Sunday, July 1.

Judge Spanner’s order is based on his view that the legislation creates a new tax subject to a two-thirds vote of the Legislature under Initiative 1053. But for decades, the cigarette tax has been due on all cigarettes handled, possessed or consumed in Washington. The State contends in its motion to the Supreme Court that the legislation, 3E2SHB 2565, simply created a more effective enforcement mechanism to stop evasion of the cigarette tax.

More information on the issue, including the order and motion for stay, is available at <http://dor.wa.gov/RYO>.

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