

13TH STORY of Level 1 printed in FULL format.

Copyright 2000 The Buffalo News  
The Buffalo News

June 30, 2000, Friday, CITY EDITION

SECTION: LOCAL, Pg. 1C

LENGTH: 664 words

HEADLINE: BATTLE SHIFTS OVER CIGARETTE SALES ON INTERNET

BYLINE: AGNES PALAZZETTI; News Staff Reporter

DATELINE: JIMERTONTOWN

BODY:

The battle between New York State and the Seneca Nation over the multimillion-dollar Indian Internet cigarette business has shifted to a battle between Gov. George E. Pataki and the State Legislature.

The Buffalo News has obtained a copy of a letter from attorneys for the Seneca Nation to the Pataki administration. The letter states that in a telephone conversation with a special counsel to Pataki, the Senecas were assured that a bill to ban the sale of untaxed cigarettes by wholesalers and retailers -- approved by State Legislature and awaiting Pataki's signature -does not apply to the Indians.

But Assemblyman Jeffrey D. Klein, D-Bronx, a sponsor of the bill, had expressed a different interpretation.

"I hope this bill will put Native American tribal corporations out of business when they sell cigarettes over the Internet," he told The News just before the bill passed the Assembly and the State Senate several days ago.

Because of the differing opinions about what the bill entails, Seneca President Duane "Jim" Ray said in a news conference on the Allegany Reservation here Thursday that the Seneca Nation has asked Pataki to veto the measure.

Ray also asked all friends of the Indians to send the same message to the governor, calling the tobacco business "essential to our well-being and our economy."

He reminded Pataki of the promise the governor made in 1997 after a violent confrontation between the state and the Seneca Nation on the sales tax issue.

At that time, Pataki announced that the state would stop trying to collect taxes from the Indians. He also said that "this decision would allow the Indian nations to manage these enterprises on their own, as they have for decades."

The Indians, who refuse to pay state sales tax, are able to sell cigarettes at a much lower price than off-reservation retailers, especially since the state tax on a

98030589



LEXIS-NEXIS



LEXIS-NEXIS



LEXIS-NEXIS

pack of cigarettes was increased on March 1 by 55 cents, making it \$ 1.11 on each pack -- the highest in the United States.

Despite the Pataki administration's promise that the Indians would not be affected by the legislation, the Seneca Nation and its businesspeople are preparing for a court battle. Attorneys Joseph F. Crangle, Paul J. Cambria Jr. and Joseph E. Zdarsky of Buffalo and attorney Timothy J. Toohy of Lewiston have been hired by business groups, and the Seneca Nation has retained a Washington, D.C., law firm.

Expected to jump into the legal fray are United Parcel Service and Federal Express, whose trucks crisscross the Cattaraugus and Allegany reservations every day, picking up hundreds of cartons of cigarettes ordered through the Internet.

The law would penalize those companies for delivering cigarettes that do not have state tax stamps. The companies would have until Jan 1, 2001, to make the necessary changes to their delivery systems.

Norman Black, national media manager for UPS, has said from the company's Memphis, Tenn., headquarters: "After studying the legislation, our attorneys think this legislation is terribly misguided by attempting to place us in this law enforcement role."

The Pataki administration reassured the delivery services, as well as the Indians, about their future if the bill becomes law, saying:

"The bill would not be applied to common carriers or others delivering tobacco products to the nation or nation-member vendors on the nation's reservations."

Businesses and banks in Salamanca also have expressed concern. Trudie Brown, who operates the Seneca Smoke Shop in Salamanca, said, "Banks here are worried because the credit card sales (of cigarettes) are handled by them, earning money for them."

Brown said that "the local businesses here (in Salamanca) and indeed businesses all over Western New York will be affected because the money the Indians earn from the cigarettes is spent in stores. We do not have retail stores, banks or car dealers on our reservations. We go to the white man's business."

LANGUAGE: ENGLISH

LOAD-DATE: July 3, 2000

98030590



LEXIS-NEXIS



LEXIS-NEXIS



LEXIS-NEXIS