

## 2 LI tribes are fired up over tax law Shinnecock and Unkechaug groups say enforcing taxes on cigarettes will cut reservation income

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Two Long Island American Indian groups are protesting a law that would tightly regulate their businesses' sale of tax-free cigarettes.

At a news conference yesterday, the Shinnecock and Unkechaug communities voiced opposition to a state law that would stop Indian stores from selling tax-free cigarettes to non-Indian customers.

Indian businesses do not collect tax on cigarette purchases. Non-Indian customers are expected to declare their purchases when computing their state income taxes.

The new law, though, would make an Indian-owned business buy cigarettes at the taxed price, said Tom Bergin, spokesman for the state's Department of Tax and Finance. Later, the government would reimburse the business for the number of packs that were bought by Indian customers, who aren't required to pay the tax.

The new law, approved by the State Legislature and signed by Gov. George Pataki, was supposed to take effect March 1. But the state tax department asked for a review of amendments to the law first, and the review is not completed.

On Long Island, the Shinnecock and Unkechaug tribes said the state tax law challenges the groups' businesses and, ultimately, their culture.

"It's not just a smoke shop fight. It's not just a business fight. It's a fight for our people," said Unkechaug Chief Harry Wallace.

Long Island Indian tribes, he said, have lost other business battles in the fishing and farming industries. Tobacco retailing remains one of the few industries where Indian businesses have an advantage because of the tax difference.

"Look at our history," Wallace said. "We can't afford to lose this battle."

The law, they claim, removes the incentive for non-Indian customers to purchase from them. That, they said, will eventually slow the money that filters into reservation communities through these stores.

The Indians, their advocates and the neighborhood residents who attended the rallies said the tax-free tobacco sales have kept the reservation stores in business and allowed some stores to put earnings back into the community. Shinnecock shops, for example, used the money to build a basketball court on the reservation.

Merchants from outside the reservation contend this gives the Indians an unfair advantage, and in 1994 the U.S. Supreme Court agreed, saying states could tax sales to non-Indian customers.

"By far, the largest proportion of the cost of cigarettes is the tax, so to not include the tax gives anyone a tremendous advantage," said Richard Lipsky of the Neighborhood Retail Alliance, a Manhattan-based advocacy group that is pressing the state to collect the tax.

The Gristedes supermarket chain filed suit in March in Brooklyn federal court to get the ruling enforced. The suit is pending.

What's your duty when buying smokes tax-free?

Are non-Indian customers required to pay tax on cigarettes that they buy from American Indian businesses?

According to New York State law, residents are supposed to declare their tax-free purchases on their income tax forms, and their tax levee is adjusted for them. But only 4 percent of New York residents say they've bought untaxed goods, said Tom Bergin, spokesman for the state Department of Tax and Finance. Indian residents do not have to pay cigarette taxes, according to state law.