

Butt Out

Schaefer's War Against Cigarette Smugglers

BY CARRIE GIFFORD

Daily Record Business Writer

His graying black hair no doubt warming in the early spring light of an April afternoon, Tarig Osman Elkhali dutifully set about loading up his white Chevy Astro van. He was in Richmond, Va., and had a long drive ahead of him.

With his cargo in place, the 42-year-old jumped in, fired the engine and made a quick one-mile drive to pick up Elkhidin Saad. The two men then settled in for the trip to Maryland, perhaps beyond. Their ultimate destination is not yet known, although four months have passed.

Upon entering Maryland, Elkhali and his companion were pulled over. Maryland special agents, who had followed the two men from Richmond, had a good idea of what was stashed in the back of Elkhali's van.

"Are you transporting cigarettes?" special agent Michael Cusimano asked. "Yes," Elkhali responded, according to Cusimano's arrest report.

"Do you have the necessary permit or bill of lading to transport cigarettes?" Cusimano continued.

"No," Elkhali answered.

A quick search of the van revealed 3,605 packs of cigarettes valued at \$11,599.20. None of the packs had the Maryland tax stamp required for transport into this state.

The two men were charged with unlawful possession and transportation of

untaxed cigarettes, charges that carry a collective three-year prison sentence and fines. Elkhali is scheduled to appear in court later this month. Charges against Saad were dropped.

While authorities may be uncertain as to where Elkhali and Saad were going, they are convinced that they know what the two men were doing: smuggling cigarettes. If they are correct, then Elkhali and Saad will join a rapidly growing list of people busted in Maryland trying to turn an illegal profit by exploiting the tobacco tax differentials among states on the East Coast.

During just the last six weeks, the state has made 13 arrests and seized 44,035 cartons of cigarettes valued at \$141,864.

If you're wondering why you never heard of cigarette smuggling in Maryland prior to the last year or so, the answer is that it largely went unchecked before William Donald Schaefer took office as Maryland's comptroller in 1998.

As the top-ranking tax collector in the state, Schaefer has made a major push to crack down on people who evade various sales taxes. For example, his agents have arrested people looking to resell furniture bought in tax-free North Carolina here in Maryland without levying the appropriate state taxes.

Schaefer's motivation is simple. Most immediately, he's enforcing a law that benefits the state's coffers. But there's more. He also is concerned about what impact the various types of smuggling

have on Maryland businesses. The retailer that imposes Maryland's tobacco tax, for instance, is at a competitive disadvantage compared with the retailer that is not.

Schaefer's initiative may seem obvious and uncontroversial, a political no-brainer, but it actually has touched off considerable criticism. There are those who are furious that the crackdown has

Fourth Time a Charm?

BY TOM STUCKEY

Associated Press

Maybe the fourth time will be the charm for state agents who are spearheading the battle against cigarette smugglers.

Enforcement agents for the state comptroller's office arrested Salah Aldalal of Richmond, Va., last week on charges of bringing 11,450 packs of untaxed cigarettes across state lines into Maryland. It was old hat for Aldalal.

Three times previously he was arrested for cigarette smuggling. Last April 5, he was convicted, given a one-year suspended sentence and put on three years of probation.

This time, the comptroller's Filed Enforcement Division hopes for something more in the way of punishment.

"We want him out of the country," Dale V. Irwin, assistant director of the division, said this week.

Aldalal came to the United States from Jordan on a six-month visa in 1990, and the comptroller's office wants him deported. In any event, he faces the cigarette smuggling charges in Maryland and is wanted in Virginia for trial on charges of cashing bad checks.

The arrest of Aldalal and Nahed Ibrahim, both of Richmond, Va., capped a busy 34 days for the comptroller's field enforcement division.

Beginning July 1, the start of the state's new fiscal year, the division made 13 arrests and seized 44,035 cartons of cigarettes valued at \$141,864. That's more than one-third of the 39 arrests made the previous 12 months.

The surge in arrests is not a fluke, according to Larry Tolliver, director of the division. He expects the rate of arrests will increase in coming months.

had the unintended consequence of setting the state up as something of a cigarette retailer itself. Maryland auctions off the confiscated cigarettes to the highest bidder.

In light of the emerging conflict, one can't help but wonder whether Schaefer's anti-cigarette-smuggling initiative eventually will go up in smoke.

New priority

"It wasn't a priority before," Schaefer told The Daily Record, referring to his crackdown. "Our job is to stop the smuggling. We are after the smugglers who are beating the law."

Schaefer seems to be winning. He reports that arrests were up a stunning 400 percent during the last year.

During Maryland's fiscal 2000, which ended June 30, Schaefer's agents made 31 arrests and seized 182,162 packs of cigarettes representing \$120,886 in Maryland taxes.

It's not hard to understand why the illegal cigarettes continue to flow even in the face of Schaefer's enforcement efforts.

Maryland, Pennsylvania, New Jersey and New York are prime markets for smugglers because of their relatively high tobacco tax rates, according to Dale V. Irwin, assistant director in field enforcement at the Office of the Comptroller.

Maryland imposes a per-pack tax of 66 cents. New York's is \$1.34. By contrast, Virginia's is just 2.5 cents. Consequently, Virginia is a very popular point of origin, Irwin said.

The business model is easy to understand: buy low and sell higher. Consider:

A box of Marlboro Lights, for example, retails for roughly \$2.90 at Baltimore-area convenience stores. The same pack goes for about \$3.20 in New Jersey and more than \$5 in New York.

Meanwhile, the very same box is only \$2.32 in Virginia.

The illegal smokes are not hard to resell, either, Irwin said. Small corner grocery stores are where the cigarettes usually turn up, he said. Consumers may not even know that the cigarettes are illegal.

Storeowners, however, cannot hide under this blanket of ignorance. They "absolutely know they are buying illegal cigarettes," Irwin said. The illegal cigarettes come from the open doors of storage warehouses rather than an authorized dealer.

Offenders who are in possession of more than two individual packs or a carton of out-of-state cigarettes — clearly labeled by the tax stamp — can be charged with unlawful possession of untaxed cigarettes, which is a misdemeanor carrying a one-year jail sentence and/or a \$1,000 fine. Smugglers also can be charged with transportation of un-

ing fiscal 1999.

At auction

While it is hard to imagine a compelling argument against Schaefer's rigorous enforcement, the effort gets rather controversial after the arrests and seizures take place.

State law requires that the seized cigarettes be put up for auction. Bids are solicited for the product, and whoever offers the most money walks away with the cigarettes. State institutions, nonprofit organizations, wholesalers and cigarette manufacturers can bid on the cigarettes.

The auctions have anti-smoking activists on edge. Why don't the authorities

In most cases, the cigarette companies themselves end up taking home the prize.

"Generally, we try to sell back to the manufacturers," said Golden. "They want the cigarettes off the market because they are stale."

Companies want their product back to ensure quality control.

"We've got a quality-control system in place to ensure our customers get the best," said Brendan McCormick, spokesman for Philip Morris. After spending thousands on its own product, Philip Morris then destroys the seized cigarettes.

"We would prefer not to have to pay the cost; we would rather the state do it," McCormick said.

Nevertheless, Philip Morris is determined to guarantee the quality of its product and does not want substandard cigarettes out on the market.

"We're guided by state law," McCormick said, and while the company will continue to buy and then destroy, it would much rather the state take care of the cigarettes.

Irwin thinks that the current system hurts the tobacco companies more than if the state merely destroyed the confiscated cigarettes.

"The companies are losing money," he said, since the cigarettes are bought back at the highest bid. "You actually hurt [cigarette companies] more by selling them back," according to Irwin, who said the companies can lose a half-million dollars after buying back their product.

But the cigarette companies don't always make the winning bid.

Just last month, the comptroller's office auctioned off 79,633 packs of untaxed cigarettes. Triple C Wholesalers Inc. of Baltimore was the highest bidder, leaving with the confiscated cigarettes that sold for \$198,695.

Last year's state auction in March auctioned off 80,578 packs of cigarettes, raising just more than \$140,000. The money is deposited into the general fund, which indirectly helps defray the costs construed by the agents, said Irwin.

Currently, the state is working on putting together another auction in the summer, but a date has yet to be

Part of Something Bigger?

"People only see cigarette smuggling as a small piece of the puzzle," said Dale V. Irwin, director in field enforcement at the Office of the Comptroller.

The smuggling is a doorway for a multitude of criminal activity, warns Irwin, including money laundering, theft and car theft.

Irwin attributes much of the smuggling to organized crime.

"Once you start arresting people, you start identifying people in the ring," he said.

Irwin thinks many of the smugglers are running for the same cigarette broker. After their arrests, many alleged smugglers seek the counsel of the same lawyer, despite where or when they were arrested.

"They're into a multitude of criminal activity," Irwin said. "We're paying income tax for everything they [smugglers] are evading."

By Carrie Gifford

taxed cigarettes, which is a felony that carries a two-year sentence and a \$50 fine per carton.

Authorities do not know how many packs of cigarettes are being smuggled in and through Maryland. They can only speculate based on what is confiscated.

"Maybe for every one load we catch, we may miss 10 loads," said Michael D. Golden, Schaefer's acting director of communications.

What authorities do know is just how big the market for cigarettes is in Maryland. Nearly 364 million packs of cigarettes were sold in Maryland dur-

just destroy the cigarettes, saving the lungs of America? they wonder.

"It's a travesty," said Michaeline Fedder, senior advocacy consultant for the American Heart Association in Maryland. The confiscated tobacco should be treated the same as guns and drugs, she said. "They don't sell back confiscated guns," Fedder added.

But state authorities have no alternative to selling the cigarettes, explained John Horney of the Comptroller's Office. "We do what we have to do. The state law says the comptroller shall sell the contraband cigarettes," he said, with added emphasis on the *shall*.

ERIC STOCKLIN



William Donald Schaefer, Maryland's comptroller, and Larry W. Tolliver, director of field enforcement, stand among the thousands of packs of cigarettes their agents have confiscated. An auction is expected later this summer.