

7-Eleven lawsuit marks latest chapter in Cook County soda tax battle

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AP file photo

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Another day brought another lawsuit against a major retailer for its implementation of the new Cook County soda tax.

Walgreens was sued on Monday after a consumer found he was charged the tax when he purchased two bottles of unsweetened flavored water.

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On Tuesday, McDonald's was accused in a suit of improperly applying the tax as part of the subtotal, meaning the county sales tax was then applied to the amount of the soda tax.

And on Wednesday, a lawsuit filed in Cook County Circuit Court alleges that 7-Eleven stores charge the soda tax on consumers purchasing drinks in its oversized cups, even if the drink inside was unsweetened.

It marked the end of an exceedingly litigious first week for the controversial penny-per-ounce tax, already spurring at least one politician to consider challenging its chief proponent, Cook County Board President Toni Preckwinkle.

To Tanya Triche Dawood of the Illinois Retail Merchants Association, which filed a lawsuit trying to stop the tax, it's almost a matter of saying "I told you so."

"We kept saying the tax was unconstitutionally vague and difficult to understand. It seems we have a combination of honest mistakes, and confusion over how to collect," she said. "The level of confusion is at an all-time high."

But Preckwinkle spokesman Frank Shuftan said there was nothing vague about the rollout.



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“Everybody had eight months to get ready for this,” Shuftan said.

“Any suggestion that the rollout was chaotic, that [retailers] didn’t have time to prepare — it’s just nonsense.”

The tax was passed last November, and county officials began having meetings about the implementation in January with retailer groups including IRMA, according to Shuftan. In March, the county posted the tax rules and regulations, he said.

The day before the tax was slated to go into effect on July 1, a Cook County judge granted IRMA a temporary restraining order.

That prompted the county to sue the retailers association for \$17 million in what they claimed as lost revenue from the tax being delayed — a move by Preckwinkle deemed “vindictive” by Cook County Commissioner Richard Boykin.

The judge later lifted the restraining order, clearing the way for it to be implemented on Aug. 2 and prompting the county to drop its suit.

“To date, the ordinance has been upheld and judged as constitutional,” Shuftan said.

IRMA has filed an appeal after a Cook County judge lifted a restraining order to allow [the tax to begin being implemented on Aug. 2](#).

Triche Dawood said she feels “very confident” the appeal will be successful. According to her, the issues being brought up in the suits are the same reasons they are appealing.

The latest suit against 7-Eleven, which seeks class-action status, was filed by Chicagoan Kelly Tarrant, who claimed she was unlawfully charged a 28-cent tax on an unsweetened iced coffee at the convenience store.

Tarrant claims that while 7-Eleven allows such purchases in the Gulp, Big Gulp, Super Big Gulp and Double Big Gulp cups, its electronic scanning system automatically calculates and charges the sweetened beverages tax on all purchases in the oversized cups, the suit claims. The county ordinance creating the tax, however,

specifically exempts unsweetened beverages from the penny-per-ounce tax.

A manager told her that employees couldn't override their scanning system to fix the mistake, the suit says.

Attorney Tom Zimmerman, who filed the suit, said it seeks to do two things: get people their money back and get 7-Eleven to change its point-of-sale system to properly implement the tax.

“While the individual amounts are relatively small, when you add it all up, it adds up to a lot. 7-Eleven has hundreds of stores in Cook County and sells beverages to thousands of people every day,” he said. “That little bit of overtaxing can add up.”

The 7-Eleven Corporation did not respond to a request for comment.

The suit against McDonald's filed [Tuesday](#) claimed one of its fast-food restaurants overcharged a customer on the tax, and a separate suit filed [Monday](#) against Walgreens claimed the store taxed sparkling water beverages that aren't subject to the tax.