

March 30, 2012

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**HIGHWAY BILL EXTENSION SIGNED INTO LAW**

Yesterday, the President signed into the law a 90-day surface transportation extension bill. The House passed the bill by a vote of 266-158 yesterday and the Senate followed suit passing the measure under a unanimous consent request. The extension runs until June 30 giving House Republicans more time to come to a consensus on an actual long-term reauthorization.

If the extension had not passed, then the Highway bill and its included federal motor fuels excise taxes would have expired on Saturday, March 31. Any lapse in the collection of the taxes would have created a logistical nightmare for petroleum marketers and heating oil dealers. If the tax lapsed, there would have been expensive software retooling and invoice changes required. Also, for marketers and retailers who made purchases that included the tax who then must sell without the tax, there would have also been a highly significant financial loss.

It is unfortunate that Congress played this partisan ping-pong game right up until the authorization was due to expire, thereby causing businesses to give unnecessary focus to planning for a potential expiration.

**RENEWABLE FUELS LIABILITY LEGISLATION INTRODUCED**

Yesterday, Senators John Hoeven (R-ND), Roy Blunt (R-MO) and Amy Klobuchar (D-MN) introduced the "Domestic Fuels Act of 2012" (S. 2264), which would provide a legal and regulatory pathway for retailers to sell EPA-approved fuels including E15. The legislation would give the EPA Administrator the authority to issue guidelines to determine whether new and existing underground storage tanks and dispensing equipment are compatible with EPA-approved fuels. Representatives John Shimkus (R-IL) and Collin Peterson (D-MN) introduced the House version on Friday.

PMAA joined NACS, SIGMA, NATSO, API, the Renewable Fuels Association (RFA), Growth Energy, the American Fuel & Petrochemical Manufacturers (AFPM), and the Outdoor Power Equipment Institute (OPEI) in a letter supporting the legislation. PMAA plans to work with House Energy and Commerce Committee and the Senate Energy and Natural Resources Committee members to gain additional cosponsors for this essential piece of legislation.

In October 2010, EPA approved a waiver for E15 use for 2007 and newer vehicles. A few months later, EPA extended the waiver for 2001 to 2006 model year vehicles. While the waiver was welcome news for supporters of ethanol, the fuel still faced other obstacles before the fuel could be sold in the marketplace, namely registering the fuel for use. Recently, EPA approved the ethanol industry's E15 misfueling mitigation plan and health effects testing requirements; however, the EPA has yet to approve the applications of 18 ethanol producers who want to sell E15. Additionally, EPA has yet to approve the ethanol industry's waiver request for E15 to be sold during the summer ozone season which requires a lower RVP fuel. Under current federal law, the one pound waiver only applies up to E10, so conventional gasoline during the summer can have up to 10 RVP. E15 must satisfy this requirement through a statutory change under the Clean Air Act or refiners would have to make a lower RVP blendstock due to E15's higher RVP properties.

There is no legal mandate for a retailer to sell E15; however, if a retailer decides to market E15, he/she must be given certainty that they won't be held liable for selling a fuel that the U.S. EPA approves for use. S. 2264 provides misfueling protection for retailers who abide by EPA's E15 labeling requirements. For instance, if a motorist ignores the labels and fuels a 2000 model year or older vehicle with E15, the retailer should not be held liable if he/she correctly has the E15 label in place. The legislation satisfies this concern, so that retailers can offer E15 with confidence. Secondly, if a retailer stores and dispenses E15 in equipment that satisfies EPA's compatibility requirements then that retailer won't be held liable. Until S. 2264 is signed into law, PMAA believes E15 sales will be minimal due to the legal and regulatory consequences.

**PMAA SUPPORTS QUESTIONING CONSTITUTIONALITY OF EMPLOYER MANDATES**

This week, the House Ways and Means subcommittee on Health held a hearing to explore the constitutional concerns raised by the individual and employer mandates which were created in President Obama's health care law. PMAA joined more than 50 other members of the Small Business Coalition for Affordable Healthcare in submitting a letter in support of the hearing to the Committee Chairman Wally Herger (R-CA) and Ranking Member, Pete Stark (D-CA).

Specifically, PMAA and coalition members reported to the committee that by penalizing businesses with 50 or more 'full-time equivalent' employees if they do not provide government-prescribed health insurance, the mandate "will force employers to use their resources and savings to pay these penalties, at the expense of hiring employees, creating jobs, and expanding their businesses. It also establishes a powerful disincentive to hire more than 50 full-time equivalent employees. Thus, it punishes both employers and employees alike. While the employer will struggle with the cost of the penalties, the employees will suffer lower wages and possibly job loss. According to the Congressional Budget Office (CBO), the employer

mandate and other harmful provisions in the Act would cost the economy over 800,000 jobs. CBO also recently estimated the employer mandate could cause as few as three to five million and as many as 20 million individuals to lose their current employer sponsored insurance coverage. This hurts small businesses that generate two-thirds of the new jobs each year.”

Hearing witnesses included Diana Furchtgott-Roth, Senior Fellow, Manhattan Institute for Policy Research, who conducted a study regarding the impact of the law on low wage employees; Sylvester J. Schieber, Consultant, Council for Affordable Health Coverage, who conducted a study showing that all wage gains have been absorbed by rising health insurance costs; Thomas J. Shaw, President, Barton Mutual Insurance Company and Stephen LaMontagne, President and CEO, Georgetown Cupcake, Inc.

### **SENATE COMMITTEE FOLLOWS HOUSE IN EXAMINING OIL PRICES**

Yesterday, the Senate Energy and Natural Resources Committee held a hearing to address high energy prices. Testifying before the Committee were: Dr. Howard Gruenspecht, Energy Information Administration; Dr. Daniel Yergin, IHS Cambridge Energy Research Associates; Dr. Paul Horsnell, Barclays Capital; and Frank Verrastro, National Security Program Center for Strategic and International Studies.

Dr. Yergin explained that “a key indicator of the current relatively tight market balance now is the thin cushion of spare production capacity – the difference between world oil production and production capacity. Spare capacity is expected to range between 1.8 and 2.5 million barrels per day in 2012, low compared with recent years. Such a tight balance would, in any circumstances, create upward pressures on price.” Most witnesses agreed with Dr. Yergin’s statement and also claimed that the Iranian situation is the main culprit to the recent worldwide oil price spike and that the West Texas Intermediate (WTI) crude oil contract has lost its world price benchmark to the Brent crude contract which now reflects the worldwide supply and demand balance.

The Committee also addressed the refinery closures along the East Coast. Witnesses said that East Coast refiners are struggling because they are having to buy expensive water-borne light crudes from Africa which is priced off of the expensive Brent crude oil contract which has led to a competitive disadvantage because refiners along the Gulf Coast and central U.S. are buying oil that is priced off of the cheaper WTI contract. Currently, the Brent contract is priced at \$124 a barrel while WTI is priced at \$103. Historically, the Brent contract has been a few dollars cheaper than the WTI contract due to it being a heavier crude, but given that Cushing, Oklahoma’s oil supplies are at highs not seen since 1997, the WTI contract is priced at a discount. Secondly, the Brent crude oil contract is a purely speculative contract that financial investors can maximize leverage on over-the-counter (OTC) exchanges which do not enforce position limits and have lower margin requirements. PMAA believes that the Brent contract is highly vulnerable to excessive speculation given that there is “no cop on the beat” to ensure effective regulation of this contract.

Witnesses agreed that the Mid-Atlantic and Northeast could be impacted this summer if refineries go off-line. If product shortages develop as we believe they might, PMAA believes the Obama Administration and Congress needs to be prepared to act quickly and waive the Jones Act which would allow foreign shippers to transport cheaper Gulf Coast supplies to the Mid-Atlantic and New England regions.

### **ROLL-YOUR-OWN TAX DISPARITY ADDRESSED IN SENATE TRANSPORTATION BILL**

Included in the Senate’s two-year \$109 billion highway reauthorization legislation was a section to resolve an Internal Revenue Code’s treatment of roll-your-own tobacco. Since 2009, there has been a wide disparity between the taxes imposed on packaged cigarettes and “roll-your-own” cigarette tobacco (\$24.78/lbs) and the taxes imposed on “roll-your-own” pipe tobacco, also called “loose tobacco” (\$2.83/lbs).

Businesses across the country have been renting RYO machines to customers who then roll their own tobacco to take advantage of the tax difference (sometimes more than three-dollars per pack). This has undermined c-store owners who are reluctant to invest in RYO machines because the federal Tobacco Tax and Trade Bureau (TTB) has secured an injunction claiming that a RYO retailer is a manufacturer and TTB will seek back taxes which could potentially create enormous tax liabilities for retailers in the future. The tax language in the Senate bill would classify retailers who own RYO machines as “manufacturers.” It wouldn’t increase taxes on pipe tobacco made with a commercial RYO machine, but it ensures that all state and federal tobacco taxes are legally collected. Rep. Diane Black (R-TN) has also introduced legislation in the House to address the disparity.

PMAA’s C-Store Committee recently reviewed the pros and cons of the legislation and agreed that the best pathway forward was to support legislation to bring parity to the RYO market.

### **NEVADA BIG DOGS SHOOTOUT**

This year's Big Dogs Shootout will feature Rick Harrison as our Thursday dinner speaker. Rick is the star of History Channel's top rated show with some 6 million viewers "Pawn Stars". Rick, his father "The Old Man", his son Corey "Big Hoss" have been in business in downtown Las Vegas for more than 28 years. Rick has lots of tales and experiences to share at the Big Dogs Shootout dinner, May 10th at the Red Rock Resort. To get a flavor our Rick's humor and insight take a look at the attached video clip to see for yourself what a great evening you will have at the 2012 Big Dogs Shootout.

[http://www.youtube.com/watch?v=8eBr8Th\\_NA&feature=player\\_embedded](http://www.youtube.com/watch?v=8eBr8Th_NA&feature=player_embedded)

### **2013 WESTERN PETROLEUM MARKETERS CONVENTION & CONVENIENCE STORE EXPO LAS VEGAS, NEVADA**

Start planning now to attend the 2013 WPMA Convention and Convenience Store Expo. It will be held at the Mirage in Las Vegas, Nevada. Mark your calendars for February 19-21, 2013.

### **MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2012**

**May 10-11, 2012**– Nevada - NPM&CSA Convention/Big Dogs Event – Las Vegas, Nevada

**June 5-7, 2012** – Montana - MPMCSA Convention – Billings Hotel and Convention Center – Billings, Montana

**June 18-21, 2012** – Washington - WOMA Convention – Suncadia Lodge – Cle Elum, Washington

**June 19, 2012** – Idaho-IPM&CSA 1:30 pm Annual DEQ/UST Compliance and Informational Meeting with DEQ staff at DEQ

**June 21, 2012** – Utah - UPMRA Summer Golf Classic – Old Mill Golf Course – Draper, UT

**August 1-3, 2012** – Idaho - IPM&CSA Convention – Coeur d'Alene Resort, Coeur d'Alene, Idaho

**August 15-16, 2012** – Utah - UPMRA Convention – Zermatt Resort (tentative), Midway, UT

**August 27-29, 2012** – New Mexico - NMPMA Convention and Trade Show – Embassy Suites – Albuquerque, New Mexico

Petro Pete: ***“If you lend someone \$20, and never see that person again; it was probably worth it!”***

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