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WPMAEXPO SCHOLARSHIP GOLF TOURNAMENT NEWS

WPMA is excited to announce that the 2018 WPMA Scholarship Golf Tournament will be held at TPC Summerlin – Las Vegas' only PGA Tour location! Make your plans now to join us at TPC Summerlin on Tuesday, February 20th for a great morning of golf and networking at this PGA Tour-quality course.

DOT WITHDRAWS PROPOSED SLEEP APNEA SCREENING MANDATE FOR CDL DRIVERS

The U.S. DOT's Federal Motor Carrier Safety Administration (FMCSA) has withdrawn a proposed rule that would require CDL drivers to be screened for obstructive sleep apnea (OSA) as part of their biennial CDL medical exam. OSA is a respiratory disorder characterized by a reduction or cessation of breathing during sleep that is generally attributed to obesity. Withdrawal of the OSA screening proposal is very good news for petroleum marketers because it could have disqualified even moderately overweight drivers with a body mass index greater than 33 and a neck circumference over 17 inches from operating a commercial motor vehicle.

PMAA vigorously opposed the FMCSA proposal after it was announced in March of 2016. PMAA submitted written comments to the FMCSA arguing that short-haul drivers should be exempt from OSA screening due to lack of sufficient information establishing a causal link between OSA and short-haul truck crashes. PMAA also met with the U.S. DOT's Regulatory Reform Task Force in May urging that the proposed rule be withdrawn altogether.

OSA screening has been under consideration off and on at the FMCSA over the past 15 years without much movement, but gained new momentum after a recent study by the National Transportation Safety Bureau (NTSB) directly linked a series of truck and train accidents to OSA. The study found undiagnosed or inadequately treated moderate to severe OSA can cause unintended sleep episodes and deficits in attention, concentration, situational awareness, memory, and the capacity to safely respond to hazards when driving commercial motor vehicles. The FMCSA said it was withdrawing the proposed rule due to inadequate information.

DOT PUTS THE BRAKES ON SPEEK LIMITER MANDATE FOR HEAVY DUTY TRUCKS

The U.S. Department of Transportation this week removed from active consideration a proposed rule that would have mandated installation of speed limiters in all heavy-duty trucks weighing over 26,000 pounds. The DOT's Federal Motor Carrier Safety Administration (FMCSA) stopped short of formally withdrawing the speed limiter proposal altogether, but instead assigned it to "inactive" status, effectively removing the controversial rulemaking from further consideration.

Last year, PMAA submitted written comments to the FMCSA calling on the agency to withdraw the controversial proposal. The proposed rule would have required all newly manufactured heavy-duty trucks to be equipped with speed limiters set to a maximum speed that would be determined in the final rule. A major concern for PMAA was language in the proposed rule that could have extended the speed limiter mandate to existing heavy-duty trucks manufactured after 1990, including petroleum cargo tank vehicles.

PMAA opposed any retrofit requirement in its written comments. PMAA told the FMCSA that safety and crash data used in the agency's analysis was insufficient to move forward with the rule because it did not show that reduced speed would actually increase safety. PMAA also commented that the proposal did not adequately weigh the cost of how the rule would impact small businesses transporters and pointed out that reducing speed to a point between 60 and 68 mph as proposed, would create dangerous driving conditions for heavy duty commercial vehicles.

PMAA SENDS LETTER OPPOSING ELECTRONIC LOGGING DEVICE MANDATE

Earlier this week, PMAA sent a letter in support of legislation introduced last week by Rep. Brian Babin (R-TX). H.R. 3282, known as the "ELD Extension Act of 2017," which would delay the compliance date of the electronic logging device (ELD) mandate by two years, to December 2019. The mandate requires trucking companies including petroleum marketers to switch from paper logs to an electronic logging device.

Rep. Babin's introduction of the bill followed the Appropriations Committee report on DOT funding which recommends a study on whether a full or targeted delay of the mandate is needed. The Federal Motor Carrier Safety Administration's (FMCSA) would be required to produce the findings of the study within 60 days. On June 12, the Supreme Court announced it would not hear a lawsuit challenging the DOT ELD rule, leaving in place a lower court ruling upholding the mandate and its December 18, 2017 compliance deadline.

SENATE HEALTHCARE BILL FALLS SHORT BY ONE VOTE

A months-long effort by Senate Republicans to pass healthcare legislation collapsed early Friday morning after three Republican Senators (McCain-AZ, Murkowski-AK and Collins-ME) joined Democrats in voting against a “skinny” repeal bill that would have repealed Obamacare. “I regret that our efforts were simply not enough, this time,” Senate Majority Leader Mitch McConnell (R-KY) said on the Senate floor after the vote. “This is clearly a disappointing moment.”

McConnell released the long-awaited text of his “skinny” repeal bill late Thursday, a few hours before the vote. It would have ended the requirement that individuals buy health insurance, and suspended through 2026 the requirement that companies provide it for their workers. It would have also extended a moratorium on the tax on medical-device makers through 2020 and increased the amount that individuals can contribute to health-savings accounts. Lastly, the measure would have defunded Planned Parenthood for one year.

It is unclear when another healthcare bill will be brought up for a vote on the Senate floor.

BORDER ADJUSTMENT TAX IS NO LONGER ON THE TABLE

The controversial border adjustment tax (BAT) will not be included in a comprehensive tax reform package that Congressional leadership and the White House plan to release very soon. In a statement issued by the “Big Six,” House Speaker Paul Ryan, Senate Majority Leader Mitch McConnell, Treasury Secretary Steven Mnuchin, National Economic Council Director Gary Cohn, House Ways and Means Committee Chairman Kevin Brady and Senate Finance Committee Chairman Orrin Hatch confirmed that BAT is dead.

Specifically, the BAT would end deductibility for any costs or expenses associated with imported goods. For example, refiners who rely heavily on imported crude oil, or wholesalers who import product, could be faced with higher taxes requiring prices to be raised on those products, which would then lead to an overall increase in motor and heating fuel prices. However, the plan would allow companies to exclude revenues they received on exports, meaning only revenue derived from inside the U.S. would be subject to income tax. Given the overwhelming opposition to BAT from thousands of businesses nationwide, Congress never had the votes to approve a BAT.

Last week, PMAA sent a letter to Senate Finance Committee Chairman Orrin Hatch (R-UT) regarding his request for stakeholder comments on overhauling the tax code. Specifically, PMAA raised its concerns with the House GOP tax reform “blue print” which called for a border adjustment tax (“BAT”).

DOT PROGRAM WILL ALLOW FOR RECONSIDERATION OF CSA RULINGS

Beginning next week, August 1, 2017, a new DOT pilot program will permit drivers to dispute crashes that occurred on or after June 1, 2017 that were ruled preventable, and possibly have those crashes removed or deemed not preventable from their Compliance, Safety, Accountability (CSA) scores.

PMAA has supported all attempts to stop the Federal Motor Carrier Safety Administration (FMCSA) from proceeding with the Safety Fitness Determination (SFD) rulemaking until all reforms related to the Compliance, Safety and Accountability/Safety Measurement System (CSA/SMS) programs mandated by the Fixing America’s Surface Transportation Act (FAST Act) are completed.

The FMCSA issued a Notice of Proposed Rulemaking: “Carrier Safety Fitness Determination” on January 21, 2016. The current safety fitness rating system ranks carriers as Satisfactory, Conditional or Unsatisfactory based on a comprehensive safety compliance review. The rule proposes to radically modify the Safety Fitness rating system in which carriers are evaluated for both the enforcement community and the general public. The new methodology would be based on on-road safety data using five of the Agency’s seven Behavior Analysis and Safety Improvement Categories (BASICs); an investigation, which would consider all seven BASICs, or a combination of on-road safety data and investigation information. The proposed new system would remove all of the existing ratings and create only one rating, “Unfit.”

PMAA’s primary concern with the proposal is that the new proposed methodology utilizes flawed CSA/SMS data and scores, which pursuant to the FAST Act, Congress has directed the agency to completely overhaul. While we support the goal of an easily understandable, rational safety fitness determination system, this proposal is built on a flawed foundation. FMCSA must complete reforms to the CSA/SMS system before proceeding to a new method of evaluating safety fitness of carriers.

The Crash Preventability Demonstration Program will accept requests for data reviews (RDRs) to the FMCSA to evaluate the preventability of certain crashes. RDRs can be made through the existing DataQs data correction system.

RULE PROPOSED TO REPEAL OBAMA’S WOTUS

A rule proposed by the EPA and the Army Corps of Engineers was introduced on Thursday which would negate the Obama Waters of the U.S. (WOTUS) rule and cement the status quo while the Trump Administration works on its own rule based on Supreme Court Justice Antonin Scalia’s much narrower interpretation of which streams and wetlands warrant federal protection by December.

In the meantime, the House EPA Appropriations bill contains language that would shield EPA's effort to withdraw the WOTUS regulation from legal challenges, as does language that would delay implementation of the 2015 ozone standard until 2025. The Appropriations bill also contains an amendment from Rep. Paul Gosar (R-AZ) barring the development of any rule or guidance document related to the social cost of carbon and an amendment by Rep. David McKinley (R-WV) that restores fossil energy funding to fiscal 2017 levels.

The WOTUS rule is important to petroleum marketers because it defines how far federal clean water regulations extend into local land use and permitting decisions including the construction of new gasoline stations and surface water runoff from parking and fueling areas. Many petroleum marketers with bulk storage could also be adversely affected by the revised 2015 definition from the Obama Administration.

DOL ISSUES REQUEST FOR INFORMATION ON OVERTIME RULE

On Tuesday, the Department of Labor (DOL) issued a request for information on last year's Obama Administration's overtime rule, meaning it is seeking public comments for the next 60 days. In the request for information, DOL acknowledged complaints from business groups that the Obama Administration's salary threshold was too high.

The request solicits opinion on whether DOL should adjust the 2004 salary threshold of \$23,660 to inflation; whether there should be "multiple standard salary levels" based on the size of the employer, census region or other factors; whether there should be "different standard salary levels for the executive, administrative and professional exemptions"; whether the 2016 rule supplanted the duties test; whether the salary threshold should update automatically; and whether employers should rely only on a duties test "without regard to the amount of salary paid by the employer."

Late last year, a Texas federal judge blocked the Obama Administration's final overtime rule just days before it was to go into effect. The Obama Administration's DOL rule would have raised the salary threshold for receiving mandatory overtime from \$23,660 to \$47,500 a year.

BILL INTRODUCED TO CLARIFY JOINT EMPLOYER MEANING

This week, Reps. Bradley Byrne (R-AL), Tim Walberg (R-MI) and Virginia Foxx (R-NC) introduced legislation H.R. 3441, known as the "Save Local Business Act," which would roll back the National Labor Relations Board's (NLRB) 2015 Browning-Ferris decision that expanded the definition of joint employment. Under the bill, a company could be labeled a joint employer only if it were "directly, actually, and immediately" involved in another business' core functions of employment.

Last month, Labor Secretary Alexander Acosta announced that DOL was withdrawing the Obama Administration's informal guidance on joint employment.

BILL TO CURTAIL MENU LABELING REQUIREMENTS PASSES HOUSE E&C COMMITTEE

Yesterday, the "Common Sense Nutrition Disclosure Act" (H.R. 772), introduced by Reps. Cathy McMorris Rodgers (R-WA) and Tony Cardenas (D-CA), was approved by the House Energy and Commerce Committee by a vote of 39-14. The bill would give retailers the flexibility they need to comply with the menu labeling regulations. Earlier in the week, PMAA joined 200 companies and organizations in a letter to the House Energy and Commerce Committee urging the Committee to approve H.R. 772. Initial industry estimates put compliance with the current rule at more than \$1 billion and rising due to the regulatory hurdles. Companion legislation has been introduced by Senators Roy Blunt (R-MO) and Angus King (I-ME), (S. 261).

Originally, FDA enforcement of the menu labeling rule was expected to begin on May 5, 2017. However, a few days before the enforcement date, the FDA extended compliance and enforcement of the menu labeling rule until May 7, 2018. The delay is good news for convenience store owners as it allows more time for Congress or the Administration to correct the onerous requirements. Now FDA is seeking input regarding the rule and PMAA will submit comments prior to next week's August 2 deadline.

NPM&CSA – REGULATORY ALERT

The Nevada Pregnant Workers' Fairness Act

The Nevada Equal Rights Commission has published its official notice for the new Nevada Pregnant Workers' Fairness Act. Nevada employers with at least 15 employees full and or part time employees including state and local governments **MUST** immediately post this notice in the workplace in a conspicuous place (e.g., where other legal employee notices are currently posted).

The notice is available at www.nvdetr.org. Bottom of the page "Bulletin Board" First bullet download and print for each location and post immediately.

In addition to having to post the notice in the workplace, the statute also requires employers to provide a copy of the notice to

1. all new employees at the beginning of their employment (e.g., as part of their new hire packets); and
2. any current employee, within 10 days after that employee notifies her immediate supervisor that she is pregnant.

Document Everything: It's recommended that employers obtain a corresponding acknowledgement of receipt of notice and that employers update their corresponding personnel policies, as well as train their supervisors to ensure full compliance with the Act and its various notice requirements.

While the Act does not become fully effective until October 1, 2017, these notice provisions became effective in June of 2017.

We suggest you contact your attorney to understand how this requirement affects your specific business.

If you need more information please contact Capitol Partners:
mendy@capitolpaartners.us, peter@capitolpartners.us or
nick@capitolpartners.us

BOOK YOUR ROOM NOW FOR THE 2018 WPMAEXPO

Our hotel block for the 2018 WPMAEXPO is open and available.

You have two ways to book rooms:

- Through our website here: <http://www.wpma.com/national-convention/hotel>
- Or call The Mirage directly at 800-627-6667 using WPM18A for the early bird rate.

We do not have a company representing us for room booking. Please do not book hotel rooms with a third-party company. Booking with a third-party company is at your own risk. You should only book your room through the WPMA web site or by calling the Mirage directly using the WPMA code above.

PLAN TO ATTEND THE 2018 WPMAEXPO



Mark your calendars for February 20-22, 2018. Make plans now to attend the 2018 WPMAEXPO.
It will be held once again at the Mirage in Las Vegas, Nevada.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

August 2-4, 2017 – Idaho (IPM&CSA) Convention – Sun Valley Resort – Sun Valley, Idaho
August 21-23, 2017 – New Mexico (NMPMA) Convention – Sandia Resort – Albuquerque, New Mexico
August 30, 2017 – Idaho(IPM&CSA) PAC Golf Tournament, Huntsman Springs GC, Driggs, Idaho
September 13-15, 2017 – Utah (UPMRA) Convention – Zermatt Resort – Midway, Utah
October 5, 2017 – Hawaii (HPMA) Golf Tournament – The King Kamehameha GC, Wailuku, Hawaii

February 20-22, 2018 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, Nevada
June 18-21, 2018 – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington
August 8-10, 2018 – Idaho (IPM&CSA) Convention – Coeur d'Alene Resort – Coeur d'Alene, Idaho



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Petro Pete: "Americans pay for gym memberships and for people to mow their lawns."

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