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### **SENATE SWIPE FEE VOTE MIGHT BE SOON**

Yesterday, the Merchants Payments Coalition held a conference call to brief state executives on the latest developments in the swipe fee reform fight. With Visa, Mastercard and the entire banking industry behind them, Senators Tester and Bob Corker (R-TN) recently announced support for legislation that would delay the Federal Reserve's proposed swipe fee reform rule for one year, down from the two year delay Tester originally sought. The new bill is not a compromise and is worse than the previous delay bill. It could attract the support of more Senators who may be inclined to support a delay of less than two years.

Last week, Majority Leader Harry Reid (D-NV) indicated he would allow a vote on Tester's proposal but he was not specific when the vote would occur. PMAA staff and members shared their opposition to the Tester bill with Leader Reid and his staff last week during PMAA's Washington Conference.

Senator Tester would like a vote on his legislation before the Memorial Day recess. The next likely opportunity for a vote is next week as an amendment to the PATRIOT Act reauthorization legislation. If adopted, the Tester amendment will allow Visa and Mastercard to continue imposing outrageous and unjustified debit card swipe fees on retailers without limit.

"I can think of no vote more important to petroleum marketers this year than the upcoming Senate vote on the Tester amendment" said PMAA President Dan Gilligan, "and ongoing marketer calls to the Senate are crucial right now."

Senator Tester needs 60 votes and retailers across the US are united in opposition. Ongoing calls and emails to Senate offices from petroleum marketers are needed. Even if you have done so recently (many members did so during PMAA's Day on the Hill as well), please remind your senators how important swipe fee reform is to your business.

### **HOUSE COMMITTEE TO MARK UP LEGISLATION TO DELAY FUTURES MARKET REFORM**

On Tuesday, the House Financial Services Committee will mark-up H.R. 1573 which would delay at a minimum of three months and as much as 18 months implementation of certain elements of Title VII (derivatives title) of the "Wall Street Reform and Consumer Protection Act." PMAA opposes the legislation because it delays implementation of critical reforms to the oil futures market. The deadline for the Commodity Futures Trading Commission's (CFTC) proposed rules is July 2011, although the deadline is expected to be exceeded for at least several months. Delaying implementation of Title VII will allow the big banks and hedge funds to continue their dominance in the futures marketplace compared to end-users who need the market to hedge effectively. PMAA continues to argue that speculators need to reduce their positions in the futures market because they are overwhelming a finite supply of product that was created for hedgers (petroleum marketers, airlines, farmers) who need to use the futures market to plan ahead. PMAA supports an all of the above approach to reduce oil prices both in the short and long term. Aggregate position limits will have a dampening effect on prices at the pump in the short term while opening up offshore areas for drilling will help with reducing prices in the long-term.

H.R. 1573 has already passed the House Agriculture Committee. It is likely that H.R. 1573 will also pass in the Financial Services and Committee and eventually pass the House, but die in the Senate. PMAA continues to reach out to members of the House Financial Services Committee to debate the merits of the bill.

### **VOTES LACKING FOR SENATE BILLS DESIGNED TO ENHANCE DOMESTIC PRODUCTION**

This week, the Senate considered several pieces of legislation which would increase offshore oil production, streamline the drilling permit process and repeal tax incentives for domestic oil production. The "Offshore Production and Safety Act of 2011," S. 953, failed by a vote of 42 – 57. 60 votes were needed to advance the bill. S. 953 would increase lease sales in the Gulf of Mexico and off the coasts of Virginia and Alaska as well as streamline the pace of the Interior Department's permitting process for oil drilling. Furthermore, Senate Majority Leader Harry Reid (D-NV) held a procedural vote on the "Close Big Oil Tax Loopholes Act," S. 940, which would repeal tax incentives for domestic oil production. The incentives include a six percent domestic manufacturing deduction and a deduction for intangible drilling costs. The majority of U.S. companies enjoy the domestic manufacturing deduction, but given the record first quarter oil companies' profits, Senate Democrats and some Republicans argued for an end to the tax incentives specifically for oil companies. S. 940 failed by a vote of 52 – 48 and 60 votes were needed to move forward. Senate Democrats said the measure would raise \$21 billion over the next ten years.

In other news, Senators Claire McCaskill (D-MO), Chuck Schumer (D-NY) and a group of Senate Democrats sent a letter to the Federal Trade Commission (FTC) asking for an investigation into gasoline price fixing by refineries. The letter argues that refineries are operating at 81 percent capacity while gasoline inventories remain near historic highs. Around this time of

the year, refineries operate at a lower capacity for annual maintenance to gear up for higher demand during the summer driving season, oil refineries argue.

### **NORA REAUTHORIZATION BILLS INTRODUCED IN CONGRESS**

Last week, both the House and the Senate introduced National Oilheat Research Alliance (NORA) reauthorization legislation. In the House, Representatives Charlie Bass (R-NH), Peter Welch (D-VT), Frank Pallone (D-NJ) and Leonard Lance (R-NJ) introduced H.R. 1756, the "National Oilheat Research Alliance Reauthorization Act of 2011." A bipartisan companion bill, S. 949, was also introduced by Senators Jeanne Shaheen (D-NH), Olympia Snowe (R-ME), Bernie Sanders (I-VT), Jack Reed (D-RI) and Richard Burr (R-NC). The legislation will pay dividends to oilheat consumers and dealers by improving service and safety practices. The legislation redirects more funds for research, development and deployment of new ultra-efficient oilheat technologies, biofuel-blended product and the integration of solar equipment as a compliment to existing heating equipment. PMAA would like to thank the original cosponsors of NORA who are working diligently to get the ball rolling to pass NORA legislation in the 112th Congress. PMAA urges you to contact your members of Congress in support of H.R. 1756 and S. 949!

### **ASK YOUR REPRESENTATIVES TO DELAY WET LINES RULE**

At the beginning of the year the Pipeline and Hazardous Materials Safety Administration (PHMSA), an agency within the Department of Transportation (DOT), released its proposed rule to prohibit the transportation of gasoline in the piping underneath transport trucks, commonly known as wet lines. This rule is similar to the rule DOT withdrew seven years ago after it determined the enormous compliance costs imposed on small businesses exceeded the benefits.

Following a review of the proposed rule PMAA believes PHMSA failed to justify the need for a wet lines retrofit because they used incorrect incident data that resulted in a seriously flawed regulatory cost benefit analysis. In our comments to PHMSA during the comment period we urged that DOT withdraw the NPRM in order to perform an accurate regulatory impact analysis based on reliable, accurate and quantifiable data.

During our Day on the Hill last week, several Congressional offices expressed interest in sending a letter to DOT requesting it delay PHMSA's wet lines rule.

### **TIME TO BEGIN EFFORT TO MODIFY ESTATE TAX AGAIN**

Although these bills are not expected to move in the near future, there are now two bills in the House of Representatives that are significant to our future efforts. Congressman Kevin Brady (R-TX), along with Reps. Mike Ross (D-AR), Kristi Noem (R-SD), Dan Boren (D-OK), and Devin Nunes (R-CA) introduced H.R. 1259 that would fully repeal the estate tax. H.R. 1259 now has 36 co-sponsors. The more recent bill is a permanent extension of current law (35 percent rate/\$5 million exemption), indexed for inflation and maintenance of the spousal transfer option. The bill, H.R. 1757, was introduced by Rep. Shelley Berkley (D-NV), and it does not have any cosponsors at this time.

Last year, the President signed into law the "Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010" (Pub.L. 111-312). Key provisions of current law include: an exemption of \$5 million, effective January 1, 2011 for two years; exemption amount is indexed beginning in 2012; a top tax rate of 35 percent, effective January 1, 2011 for two years; the continuation of "stepped-up basis" meaning the value of transferred property is adjusted for inflation at death; spousal transfer of any unused exemption amounts for two years.

After 2012, the top estate tax rate will increase to 55 percent with a \$1 million exemption and the spousal transfer will disappear. A permanent extension of current law will bring certainty to American's family businesses and prevent a major tax increase that family businesses will have to pay when they can least afford it.

### **2012 WESTERN PETROLEUM MARKETERS CONVENTION & CONVENIENCE STORE EXPO LAS VEGAS, NEVADA**

Start planning now to attend the 2012 WPMA Convention and Convenience Store Expo. It will be held at the Mirage in Las Vegas, Nevada. Mark your calendars for February 21-23, 2012.

### **MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2011**

**June 7-9, 2011** – MPMCSA Convention – Hilton Garden Inn – Missoula, Montana

**June 20-23, 2011** – WOMA Convention – Suncadia Lodge – Cle Elum, Washington

**August 3-5, 2011** – IPM&CSA Convention – Sun Valley Resort – Sun Valley, Idaho

**August 30-31, 2011** – NMPMA Convention – Embassy Suites, Albuquerque, New Mexico

**September 14-16, 2011** – UPMRA Convention – Rainbow Hotel and Casino – Wendover, NV

**September 21, 2011** – NPM&CSA – Tanker Yanker – Reno, NV

**Petro Pete: "Failure is no more fatal than success is permanent."**

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