

June 29, 2012

Visit us online at www.wpma.com

WP-06-29-12

SUPREME COURT STUNS ONCE HOPEFUL EMPLOYERS

Business executives and employers, whose companies might fail as a result of the new healthcare law, were stunned on Thursday when the U.S. Supreme Court gave a green light for the law to go forward. The new law is especially punitive to retailers operating convenience stores, gas stations, restaurants, and other similar businesses now facing potentially devastating new employer mandates in 2014. "If the next Congress and President, either Obama or Romney, are serious about creating jobs, they will need to get serious about repealing or fixing the job killing elements of the new healthcare law," said PMAA Chairman Stanley Roberts. "Many of our member companies will have entry level positions to fill; however, the healthcare law makes many companies reluctant to hire," he said.

PMAA will be aggressively lobbying the new Congress to repeal or revise the costly mandates which will be imposed on employers in 2014.

D.C. CIRCUIT DECISION UPHOLDS ALL EPA GREENHOUSE GAS REGULATIONS

On Tuesday, June 26, 2012 a federal appeals court upheld the Environmental Protection Agency's greenhouse gas regulatory program. The U.S. Court of Appeals for the District of Columbia Circuit dismissed challenges from industry groups and some states to EPA's tailoring rule, which limits greenhouse gas permitting to the largest industrial sources. Additionally, the court denied challenges to EPA's endangerment finding for greenhouse gases and subsequent emissions standards for cars and light-duty trucks. The court ruled that industry groups challenging EPA's tailoring rule "falls far short" of demonstrating how they were harmed by the rule and thus lack standing to bring their lawsuits.

"Indeed, the timing and tailoring rules actually mitigate petitioners' purported injuries," the court said. "Without the timing rule, petitioners may well have been subject to [prevention of significant deterioration] and Title V for greenhouse gases before January 2, 2011. Without the tailoring rule, an even greater number of industry and state-owned sources would be subject to PSD and Title V, and state authorities would be overwhelmed with millions of additional permit applications."

Unfortunately, the ruling clears the way for EPA to continue efforts to regulate CO2 from motor vehicles, new power plants, and other big industrial sources under the Clean Air Act.

CONGRESS AGREES TO 27-MONTH HIGHWAY BILL***An Important Win for Marketers on Wetlines***

Late Wednesday night, House and Senate negotiators signed off on a deal to extend highway programs for 27 months. The highway bill conference agreement could be merged with a student loan bill and flood insurance legislation which are currently pending on the Senate floor. All three combined bills are expected to pass today or into the weekend. The highway bill agreement would maintain funding at current levels through the end of fiscal year 2014.

PMAA successfully lobbied for a provision which will prevent the U.S. Department of Transportation (DOT) from arbitrarily adopting costly new "wetlines" retrofit rules for trucks and trailers owned by marketers. The important provision calls for a "wetlines" study and cost benefit analysis requiring the Government Accountability Office (GAO) to study the issue before the rule can be finalized. The Secretary of Transportation cannot issue a final rule until the study is completed or two years after the date of enactment of the highway bill. PMAA will continue to urge Congress and the DOT to oppose a wetlines mandate.

Fortunately, the final conference agreement doesn't completely raid the leaking underground storage tank (LUST) trust fund as originally proposed. The final deal now takes \$2.4 billion from the fund and doesn't divert future LUST revenues by taking one-third of the .001 LUST tax to pay for the 27 month extension as many in Congress originally supported. Earlier this year, the Senate passed their highway bill which would have taken \$3.1 billion from the LUST fund and diverted future LUST revenues to pay for the highway bill. PMAA argued that if states didn't receive the LUST money, then state agencies would be forced to look for other ways to pay for state UST programs such as increasing UST fees on marketers. PMAA will continue to urge lawmakers to appropriate adequate LUST funding and use the fund for its intended purpose.

Another good outcome for PMAA and its coalition allies is rest area commercialization language was basically not included in the final conference agreement. The conference committee did make some last minute changes to their report. The conference agreement says that states can allow limited commercial activity on rest areas which includes advertising and media displays in the facility; items to promote tourism in the state limited to books, DVDs, and other media; tickets for events or attractions in the state of a historical or tourism nature; travel-related maps, travel booklets, hotel coupons; lottery machines (blind vendors given priority); and sponsorships of the facilities. All revenue from the activities must go to operation and maintenance of the rest area. It was reported that the section had mistakenly not been included in the original

draft of the conference report. The changes to the conference agreement are not major and will not allow rest area commercialization which would put retailers along interstate highways at a competitive disadvantage. Earlier this year, Senator Rob Portman (R-OH) tried to attach a rest area commercialization amendment to the Senate highway bill, but the effort failed overwhelmingly due to impressive retailer grassroots lobbying.

Another win for marketers and convenience store operators is inclusion of roll-your-own (RYO) tobacco language in the final conference deal. 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 final deal 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.

The 18.3 cents-per-gallon gasoline, the 24.3 cents-per-gallon diesel fuel and the .001 leaking underground storage tank taxes that are dedicated to the Highway Trust Fund were extended at their current rates through September 30, 2016. For now, Congress has maintained current tax rates, but given the depleting highway trust fund, Congress will likely revisit these tax rates next Congress.

Not included in the final agreement was Keystone XL pipeline language which would have expedited the approval process. PMAA will continue to support efforts in the House and Senate to move the Keystone project forward. Earlier this year, the Obama Administration rejected the building of a pipeline from Canada's oil sands to the Gulf Coast through environmentally sensitive parts of Nebraska.

The electronic on-board recorders mandate was included in the final deal. PMAA opposed efforts to include the mandate language and will look for other opportunities to prevent the mandate from moving forward. Also included in the final deal was a hours-of-service study which mandates a study of the restart provision of the HOS rule published on December 27, 2011. The field study must expand on the results of a lab-based study done by FMCSA using the same methodologies and making sure data collected is “representative” of drivers impacted by HOS regulations. The study must be done no later than March 31, 2013.

As of press time, the House and Senate have yet to consider the conference report on the two-year surface transportation reauthorization bill (H.R. 4348). It is expected that Congress will pass the 27-month extension. The current extension expires on Saturday at 11:59pm.

NEVADA MARKETERS FILE LEGAL CHALLENGE TO UNION'S MARGIN TAX INITIATIVE

NPM&CSA joined the Committee to Protect Nevada Jobs this week. The business coalition filed a lawsuit against the "Education Initiative" (margin tax Initiative) charging that that the Initiative's Description of Effect is deceptive and incomplete and that the Initiative violates the single-subject rule.

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

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, Midway, UT

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

Petro Pete: ***“I used to wonder what it was like to read people’s minds, but now that I have a Facebook account I’m over it.”***

© 2011 Western Petroleum Marketers Association - All rights reserved. No part of this work may be reproduced or copied in any form or by any means - graphic, electronic, or mechanical, including photocopying, recording, or otherwise. The information herein is also intended for the sole purpose of members of the Western Petroleum Marketers Association (WPMA). Any other use is strictly prohibited without the express written consent of the WPMA.

If you do not wish to receive information via fax or e-mail, please contact WPMA at: (801) 263-9762, Fax: (801) 262-9413, or e-mail: janr@wpma.com. Thanks.



Classified Ads

WANTED

2 OR 3 PETROLEUM TANKERS

General Specs:

- Over 8400 gallons
- Aluminum Composition
- Prefer Double Conical but straight barrel will work
- Any Year
- Any Make
- Any Condition

Contact: Tucker Evans

Office 678 925 7779

Fax 678 705 4418

FOR SALE:

Horizontal Tanks	Vertical Tanks
3-2000	2-10,000
3-3000	2-12,000
3-3000	
1-4000	
1-10,00	

Call Mark (208) 664-2188

For Sale:

2003 T-800 Kenworth 4 axle truck

- 475 ISX Cummins
- 13 Speed
- All Alum. Wheels
- 248" WB 590,000 miles Tires 95%
- Well maintained, excellent condition.

Call Mark (208) 664-2188