WPMA
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weekly update

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PMAA OBJECTS TO THE PROPOSED VISA/MASTERCARD SETTLEMENT CASE

This week, PMAA, SIGMA and the National Association of Shell Marketers (NASM) ("the Associations") filed an objection to the proposed Visa/MasterCard settlement case over concerns that branded petroleum marketers would be unable to file a claim against the pending $6.24 billion settlement fund in the consolidated payment card interchange fee class action case (In Re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation, MDL-1720). The settlement class is comprised of all merchants that accepted Visa and Mastercard payment cards from 2004 to the present. The settlement fund is designed to compensate class members for the interchange fees they paid, which were allegedly inflated as a result of certain violations of the antitrust laws by Visa and Mastercard and their participating banks.

Major oil refiners have claimed to be class members that are entitled to receive payment from the settlement fund even though they have divested nearly all of their company-owned retail sites over the last 20 years. The Associations argued that petroleum marketers are "Branded Operators" and class members who are entitled to the settlement fund because they "accept" the Visa/MasterCard at their branded outlets. The Associations said in their objection, "In fact, standard contractual language in agreements that Branded Operators sign in order to purchase motor fuel and use the name of major refiners at their outlets requires that Branded Operators accept Visa and MasterCard payment cards, among others. There should be no question, then, that Branded Operators are class members for the transactions they accept."

A Court hearing will be held on November 7, 2019 to decide whether to approve the settlement.

FMCSA SEEKS TO DELAY ELECTRONIC DATABASE FOR CDL DRIVER INFORMATION SHARING

The Federal Motor Carrier Safety Administration (FMCSA) is seeking a two-year delay for compliance with certain provisions in the Entry Level Driver Training rule. Delay of the provisions that are part of a 2016 final rule is designed to allow more time for development of the secure electronic transfer of CDL training information to the certified training provider registry and state driver licensing agencies. The proposed two-year extension would delay the date by which CDL training providers must begin uploading driver training certification information into the FMCSA's Training Provider Registry (TPA). The TPA is an electronic database that will contain entry level driver training information that is accessible to state licensing agencies and the FMCSA. The TPA is important to petroleum marketers because it is designed to speed up the training and licensure of new entry level drivers.

In addition, the FMCSA is proposing to provide additional time to complete development of the electronic interface that will receive, store and transmit CDL training certification from training providers to state driver licensing agencies. The delay is being sought to give state driver licensing agencies sufficient time to modify their information technology systems and procedures to accommodate their receipt of driver-specific ELDT data from the training provider registry, the agency said. The compliance date for the two provisions of the 2016 final rule have been extended from Feb. 7, 2020, to Feb. 7, 2022. The FMCSA said it does not propose any other substantive changes to the requirements established by the 2016 ELDT final rule, and that new drivers would still have to comply with the final ELDT rule's *training* requirements beginning on Feb. 7, 2020.

DEBT LIMIT DEAL LIKELY TO BE SIGNED INTO LAW

What This Means for Tax Extenders

On Thursday, the House passed a two-year budget framework and debt ceiling bill by a vote of 284-149. The two-year budget deal serves as a blueprint for the actual appropriation process meaning that Congress will need to approve a government spending bill later this year. The bill would increase discretionary spending limits by nearly $324 billion over two years. Although the bill passed, many conservatives, and some Democrats, were not pleased with the bill due to the lack of financial offsets. The Trump Administration and Speaker of the House Nancy Pelosi (D-CA) had been rushing to reach a deal before the end of this week to ensure a bill could be voted on before the August recess.

Unfortunately, the bill does not include the tax extenders package as some were expecting. The good news is that Congress will have another bite at the apple to attach tax extenders when it will need to approve a government spending bill later this year. The spending bill could include tax extenders, retirement fixes and technical fixes to the GOP's Tax Cuts and Jobs Act.

An upcoming tax extenders package will likely include:

- A retroactive extension of the $1 per gallon biodiesel tax credit through 2019 and/or 2020 that expired at the end of 2017.

- A prospective renewal of the Oil Spill Liability Tax (OSLT) through at least 2019. In June, PMAA sent a letter to the Senate Finance Committee to reiterate its support for the biodiesel blender's tax credit and to oppose a retroactive extension of the OSLT.

DEMOCRATS INTRODUCE BILLS TO INCREASE THE MINIMUM INSURANCE REQUIRED FOR MOTOR CARRIERS AND TO REQUIRE AUTOMATIC EMERGENCY BRAKES ON TRUCKS

Recently, Reps. Jesús "Chuy" García (D-IL), Rep. Hank Johnson (D-GA) and Representative Matt Cartwright (D-PA) introduced the INSURANCE Act, which would ensure minimum insurance requirements for motor carriers are periodically adjusted to the inflation rate of medical costs, as determined by the Bureau of Labor Statistics. Minimum insurance requirements for motor carriers were established in 1980 and have not been adjusted for inflation. Currently, the minimum insurance requirement is $1,000,000 for most carriers. The INSURANCE Act would set the minimum at $4,923,154 and would be adjusted every five years for inflation relating to medical care.

The legislation is problematic for petroleum marketers. Current requirements are more than sufficient in ensuring over 99 percent of claims filed in motor vehicle crashes are fully covered since they were implemented subsequent to the passage of the Motor Carrier Act of 1980. In the rare instance that coverage is not adequate; claimants can pursue compensation in court for damages not covered by the carrier's insurance (assuming the motor carrier is at fault). Furthermore, current market forces in the insurance industry increase financial responsibility minimums when necessary to provide full coverage for damages based on risk. Companies that cannot afford the tremendous increase will go out of business, resulting in less competition and increased prices.

PMAA fought a similar past effort to raise insurance minimums for motor carriers and won. In June 2017 the Federal Motor Carrier Safety Administration (FMCSA) officially withdraw a rulemaking intended to explore the pros and cons of increasing liability insurance minimums for motor carriers.

PMAA opposed the increase since it was first proposed in a November 28, 2014 Advanced Notice of Proposed Rulemaking (ANPR). FMCSA had publicly entertained the idea of increasing requirements to as much as $4.5 million per truck for general freight, and a hike to as high as $10 million for petroleum marketers from the current $750,000 in liability insurance for general freight, $1 million for home heating oil and $5 million for gasoline and other hazardous materials. Under this scenario, premiums would have been increased approximately 500 percent.

Petroleum marketers in town for PMAA's 2015 Washington Conference "Day on the Hill" educated Congress on why there was no need to increase insurance minimums. PMAA joined other groups in a letter in support of language that was included in the 2015 Transportation-Housing spending bill which would have prohibited the FMCSA from using funds to issue and implement new Motor Carrier Financial Responsibility requirements. The INSURANCE Act is unlikely to become law, however, PMAA will continue to fight these unnecessary efforts to raise insurance minimums for motor carriers.

Meanwhile, Reps. García and Hank Johnson also introduced the Safe Roads Act, which would require Automatic Emergency Braking (AEB) technology become standard features on motor carriers including large trucks. PMAA is currently reviewing the legislation and will ask for feedback from PMAA's operational committees.

BILL INTRODUCED IN THE HOUSE TO CRACK DOWN ON ONLINE SALES OF E-CIGARETTES TO MINORS

This week, Reps. Rosa DeLauro (D-CT) and Kelly Armstrong (R-AL) introduced the "Preventing Online Sales of E-Cigarettes to Children Act" (Bill number pending) that would prohibit online sales of e-cigarettes to minors by applying the same safeguards already in place for regular cigarettes and smokeless tobacco products. The bill is companion legislation to S. 1253 in the Senate, which was introduced earlier this year by Sens. Dianne Feinstein (D-CA), John Cornyn (R-TX), and Chris Van Hollen (D-MD). Original cosponsors of the bill include Reps. Doug Collins (R-GA), Jamie Raskin (D-MD), Joe Wilson (R-SC), J. Luis Correa (D-CA), Steve Womack (R-AR), Zoe Lofgren (D-CA), Sean Duffy (R-WI), French Hill (R-AR), and Mike Gallagher (R-WI).

The bill amends the "Prevent All Cigarette Trafficking Act (PACT Act)" to also include e-cigarettes in the definition that already includes cigarettes.

Specifically, the bill would require online retailers of e-cigarettes to:

- Verify the age of customers for all purchases.
- Require an adult with ID to be present for delivery.
- Label shipping packages to show they contain tobacco products.
- Comply with all state and local tobacco tax requirements.

PMAA fully supports this legislation.

EV CHARGING INFRASTRUCTURE COULD RECEIVE A BOOST IN UPCOMING SENATE TRANSPORTATION BILL

The Senate Environment and Public Works (EPW) Committee is looking to markup a surface transportation bill next Tuesday in committee and the top Republican and Democrat on the committee both indicated this week they expect that the bill will include significant investment in electric vehicle (EV) charging infrastructure. Earlier this week, Committee Chairman John Barrasso (R-WY), who has called for ending tax breaks for electric vehicles and has introduced legislation that would do so, said that he would like to see more funding for charging infrastructure. Barrasso said, "If you have an established market, you need infrastructure so it can be used but it doesn't need more tax subsidies to subsidize the purchase of those vehicles." He added that he is also looking for "some sort of user's fee for the wear and tear that are produced by those vehicles." PMAA is very concerned about this problematic language because there is no guarantee that Congress will repeal the current EV subsidy and ensure that EVs pay into the Highway Trust Fund (HTF).

DOLLAR STORES IN THE SPOTLIGHT: ARE THEY BAD FOR THE AMERICAN POOR?

Recently, CNN released a report saying that dollar stores, such as the Dollar Store and Dollar Tree, hurt poor Americans instead of helping them. The report indicates that dollar stores can actually be hurting the poor because many critics say dollar stores intentionally bunch up in low-income areas. Once the dollar stores are built, there will be no incentive for a grocery store to want to build in that area, and often times dollar stores do not provide fresh produce and other food necessities. The dollar stores also threaten nearby mom-and-pop stores.

In the article, Julia McCarthy, senior policy associate at the nonprofit Center for Science in the Public Interest and a critic of dollar stores, says that "the business model for these stores is built on saturation." She added, "When you have so many dollar stores in one neighborhood, there's no incentive for a full-service grocery store to come in."

PROPOSED RULE WOULD ELIMINATE 3 MILLION FROM SNAP BENEFITS

USDA's Food and Nutrition Service (FNS) has proposed making a change that allows states to make participants receiving minimal Temporary Assistance for Needy Families (TANF) benefits automatically eligible to participate in USDA's Supplemental Nutrition Assistance Program (SNAP).

The proposed rule published Tuesday in the Federal Register would limit SNAP/TANF automatic eligibility to households that receive TANF-funded benefits "aimed at helping families move towards self-sufficiency." The proposal would deny many SNAP recipients in 40 states, plus the District of Columbia. The change would eliminate 3 of the 38 million Americans who currently benefit from the program.

U.S. Secretary of Agriculture Sonny Perdue believes the states cannot be trusted with determining who should receive SNAP benefits.

To comment on the proposed rule go to www.regulations.gov. The comment period will be open for 60 days.

PLAN TO ATTEND THE 2020 WPMAEXPO

Mark your calendars for February 18-20, 2020. Make plans now to attend the 2020 WPMAEXPO.
It will be held once again at the Mirage in Las Vegas, Nevada.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

August 5-7, 2019 – Idaho (IPM&CSA) Convention – Sun Valley Resort, Sun Valley, ID
August 19-21, 2019 – New Mexico (NMPMA) Convention – Sandia Resort & Casino, Albuquerque, NM
September 11-13, 2019 – Utah (UPMRA) – Convention – Zermatt Resort, Midway, UT
September 13, 2019 – Idaho (IPM&CSA) Teton Golf Tournament – Teton Springs Resort, Victor, ID
October 14, 2019 - Hawaii (HPMA) - Golf Tournament - Oahu Country Club, Honolulu, HI
February 18-20, 2020 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

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Petro Pete: "*Don't worry about the world coming to an end today. It is already tomorrow in Australia.*"

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