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## **CONGRESSIONAL UPDATE**

This week, the House Ways and Means Committee approved a host of significant tax increases to pay for a Democratic-led reconciliation package in excess of \$3 trillion. The burdensome legislation takes direct aim at EMA members by doubling the excise tax on tobacco and nicotine products and expands the current subsidization of electric vehicles (EVs).

Additionally, the **partisan** Democratic legislation would raise the top personal income tax rate to 39.6 percent from 37 percent; increase the capital gains rate to 25 percent from 20 percent (well below President Biden's request of a capital gains increase to 39.6 percent); rolls back President Trump's corporate-tax rate – bringing the top rate to 26.5 percent from 21 percent; reduces the threshold of eligibility for estate taxes to \$12 million for married filers, down from the current \$24 million; and phases out Section 199A deduction.

The reconciliation process is far from over as it will face significant hurdles in the Senate where moderate Democrats are expected to push back on social policies and the overall price tag.

**CLICK HERE** to act now – we need you to contact your Congressional members and urge them to oppose the House reconciliation package.

## **EMA DISASTER FUEL RESPONSE PROGRAM SENDS 165 TRUCKS FROM 16 STATES TO FUEL LOUISIANA IN THE WAKE OF HURRICANE IDA**

The need for the marketers who participate in the EMA Disaster Fuel Response Program was at its highest level for Hurricane Ida. In fact, when more marketers were needed to fuel the impacted portions of Louisiana, EMA reached out to the states to generate more volunteers, and the response was great. Thus far there have been 165 EMA member trucks from 16 states in Louisiana, with many still continuing the re-fueling effort.

If you have questions about the program, contact Sherri Stone at [sstone@emamerica.org](mailto:sstone@emamerica.org). **If you would like to join the EMA Disaster Fuel Response Program**, please contact Sabrina Pitcher at [spitcher@emamerica.org](mailto:spitcher@emamerica.org).

## **GROUPS SEND LETTER OPPOSING TOBACCO FET INCREASE IN HOUSE RECONCILIATION BILL**

This week, EMA joined NACS, NATSO and SIGMA in expressing opposition to the substantial increase in the federal excise tax on tobacco and nicotine products that has since been included in the House Ways and Means Committee mark-up language that is part of the reconciliation package. Click [here](#) to read the letter.

## **GROUPS PUSH FOR ELECTRIC HEAT PUMP INCENTIVES IN FINAL RECONCILIATION PACKAGE**

This week, 14 groups including the American Council for an Energy-Efficient Economy, Earthjustice, Rewiring America and League of Conservation Voters, sent a letter to Democratic Congressional leadership insisting that the HOPE for HOMES Act and the Zero Emissions Homes Act be included in the final reconciliation package. The two bills focus on improving home energy efficiency by replacing or retrofitting appliances. Click [here](#) to read the letter.

Earlier this year, EMA and its state heating fuel associations to Senator Martin Heinrich (D-NM) regarding the Zero-Emissions Homes Act of 2021, a bill which would incentivize the purchase of new energy efficient heating appliances through federal rebates and tax credits. Unfortunately, the tax credits are limited to purchasers of new heating appliances powered by electricity while not recognizing clean renewable biodiesel used for heating which can achieve far greater reductions in greenhouse gas emissions than any alternatively powered heating appliance on the market today, including heat pumps. Click [here](#) to read the letter. EMA opposes both bills.

## **EPA APPROVES SOFTWARE PATCH TO BYPASS FAULTY DEF SENSORS THAT SHUTDOWN DIESEL ENGINES**

The EPA and California Air Resources Board (CARB) are working with diesel engine and vehicle manufacturers to address the growing number of reported diesel exhaust sensor failures that have left thousands of diesel engines temporarily inoperable. The sensor monitors the quality of diesel exhaust fluid (DEF) used in the engine. When the device senses too much nitrogen oxide in the exhaust system, the engine shuts down (derates to slightly above idle) to prevent violating federal air emission standards. The engine cannot be restarted until a new sensor is installed.

The problem is due to faulty sensors installed by manufacturers. However, the ongoing shortage of computer chips has made replacement sensors impossible to find. To get the stalled trucks rolling again, the EPA and CARB have approved a

temporary software patch that will restart engines and keep them running until the industry can obtain the computer chips needed to produce replacement sensors. The software patch is available through vehicle and engine dealers.

### DRUG AND ALCOHOL CLEARINGHOUSE REGISTRATION FOR STUDENT DRIVERS

The Federal Motor Carrier Safety Administration (FMCSA) has updated the Drug and Alcohol Clearinghouse registration process to clarify how student drivers with a commercial driver's license (CDL) or commercial learner's permit (CLP) will register.

- Student drivers who are employed by a motor carrier must **register as a driver** ([download instructions](#)).
- Student drivers in a training program that is *not affiliated with or operated by a motor carrier* must **register as a student driver** ([download instructions](#)). This allows these individuals to designate a consortium/third-party administration (C/TPA), which is required to fulfill their drug and alcohol testing requirements

Employers of CDL holders are required to register in the Drug and Alcohol Clearinghouse, and to conduct queries on CDL holders they currently employ or are considering hiring. Employers who are not registered with the FMCSA Drug and Alcohol Clearinghouse may use the interactive [Employer Registration Guide](#) to register.

### EMA JOINS OTHER ASSOCIATIONS IN REQUEST FOR SWIFT RELEASE OF THE LIST OF ENDS NICOTINE PRODUCTS WITH MARKETING DENIAL ORDERS

On September 10, EMA joined FMI (the Food Industry Association), NACS, NATSO and SIGMA in a [letter](#) to Janet Woodcock, M.D. Acting Commissioner of Food and Drugs, U.S. Food & Drug Administration (FDA), and Mitchell Zeller, JD, Director of the Center for Tobacco Products (CTP), FDA, urging swift announcement of the list of electronic nicotine delivery system (ENDS) products for which the Agency has issued marketing denial orders (MDOs). Without the list, retail members, who make every effort to comply with the law, do not know which products must be removed from shelves.

Last August, our associations also sent a letter asking CTP to publish a list of products for which PMTAs had been submitted to know which products could legally be sold in stores during the FDA's review process. In May, CTP published this list providing needed clarity for retailers, distributors and wholesalers. As the Agency takes action on PMTAs, it is imperative that there is continued transparency in the process and that stakeholders across the tobacco trade know all of the products that have had PMTAs rejected as well as all of the products that have had marketing orders granted.

Retail members who sell ENDS products take the responsibility of compliance and operating in accordance with the law seriously. Publicly available information noting the status of individual products is the only way retailers can ensure compliance.

The letter urged the FDA to, "Until such information is available, we respectfully ask CTP to focus enforcement on manufacturers who know the legal status of their own products and exercise enforcement discretion with respect to retailers selling ENDS products for which the status of their PMTAs has not been made publicly available."

### MEMBERS AND ASSOCIATES - YOU CAN CONTRIBUTE!

WPMA welcomes industry-related articles for publication in the WPMA News magazine. All members and associate members of WPMA are eligible to submit items for publication. Articles will be included as space allows, and no self-promoting articles or editorials will be accepted. WPMA reserves the right to edit and make adaption of such contributions to accommodate the magazine's space and style. Please submit articles or content to Jan Roothoff, WPMA Administration/IT Director at [janr@wpma.com](mailto:janr@wpma.com), or mail to Jan Roothoff, Western Petroleum Marketers Association, PO Box 571500, Murray, UT 84157-1500. Submissions for the Winter edition of WPMA News magazine are due before November 1<sup>st</sup>. Later submissions will be considered for the Spring issue.

### MARK YOUR CALENDARS FOR UPCOMING EVENTS

**November 1, 2021** – Hawaii (HPMA) Golf Tournament – Oahu Country Club, Honolulu, HI

**December 2, 2021** – Washington (WIED) Holiday Party – Little Creek Resort & Casino – Shelton, WA

**December 14, 2021** – Oregon (OFA) Holiday Event – Portland Golf Club – Portland, OR

**February 22-24, 2022** – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

**May 5-6, 2022** – Nevada (NPM&CSA) Big Dogs – Las Vegas, NV

**June 7-8, 2022** – Montana (MPMCSA) Convention – Fairmont Hot Springs Resort – Fairmont, MT

**June 20-22, 2022** – Washington (WIED) Convention – Suncadia Resort – Cle Elum, WA

**July 17-19, 2022** – Oregon (OFA) Annual Convention – Sunriver Resort – Sunriver, OR

**August 3-5, 2022** – Idaho (IPM&CSA) Convention – Coeur d'Alene Resort – Coeur d'Alene, ID

**August 22-24, 2022** – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, NM

**September 14-16, 2022** – Utah (UPMRA) Convention – Sheraton Park City Hotel – Park City, UT

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**Petro Pete: *“My opinions may have changed, but not the fact that I am right.”***

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