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NEVADA GOVERNOR DECLARES SEPTEMBER WE CARD AWARENESS MONTH

Nevada law prohibits the sale of tobacco products and alternative nicotine products, including vapor products and e-cigarettes, to those younger than 18.

We Card Awareness Month is a retail education and training effort to boost Nevada retailers' awareness of, and participation in, responsible retailing efforts to comply with federal, state and local laws and identify, prevent and deny tobacco and other age-restricted product sales to minors.

The month of September is an opportunity to provide training and education to the retail community to help retailers comply with age-restricted product laws and serve their communities as responsible retailers.

The We Card program is supported by organizations in the Silver State and nationwide and Nevada benefits from a responsible retailing community that successfully prevents tobacco and other age-restricted product sales to minors.

Right now all eyes seem to focus on retailer tobacco and vapor product compliance with underage access laws. This convergence of events includes:

- 12 states are increasing the minimum-age laws to purchase tobacco and vapor products with effective dates running from July to January.
- FDA is ramping up its enforcement throughout 2019, calling out specific retail chains for poor compliance and indicating more forceful action in the future.
- News reports are highlighting varying aspects of the underage vaping problem.

During **We Card Awareness Month** in September, the national non-profit is stepping up efforts to help retailers boost compliance with federal, state and local laws governing age-restricted products.

"Transitioning to new state laws, especially higher 21 year minimum-age laws is no small endeavor for a single-store operator or a retail chain operating in multiple states. In some cases, customers may first hear of the law change when they're attempting to buy a product at the point of purchase," according to Doug Anderson, president of the *We Card* Program.

Some states have mandated an "under 30" age for retailers to ask for ID – which is higher than the FDA requirement of "under 27" years old. And there are nuances to these laws which sometimes provide exceptions for active duty U.S. Military who present their military ID -- in which case the age remains 18 years (Arkansas, Texas and Virginia -- and in MD once the 21 law takes effect.)

To help retailers with this complexity, *We Card* rolled out "21 year Minimum-Age Resources" for retailers, including an online download summary of each state's new law and a FREE 10-12 minute state-specific Training Booster Course. The training teaches employees how to handle the formerly of-age customer who will find out he no longer can purchase vapor or tobacco products where the purchase age has changed.

The FDA retailer compliance program covers regulations restricting underage commercial access to tobacco and vapor products -- completing nearly 125,000 inspections of retail stores this fiscal year and almost 1.1 million inspections since 2010.

"*We Card's* efforts to help convenience stores – and every type of store – boost their compliance rates are showing tremendous results. After 24 years of helping retailers with training and education, *We Card* is well-positioned to help retailers make this transition, keep awareness high and offer employee training to spot and deny underage attempts to purchase age-restricted products," said Lyle Beckwith, Senior Vice President of Government Relations for the National Association of Convenience Stores and a *We Card* board chairman. NACS is a founding board member of *We Card*. "And while all training, tools and technology can help, ultimately the retail employee needs to be prepared and confident at preventing underage tobacco and vapor sales," he added.

National compliance rates reported by the Substance Abuse and Mental Health Services Administration (SAMHSA) – which issues annual retailer violation rates -- show a 9.6% violation rate with state youth access to tobacco laws (or said another way, a 90.4% compliance rate) in the latest national look at compliance. “That’s a big positive swing in compliance from 1997 when it was measured to be a 40% violation rate. Now, less than 1 in 10 underage attempts to purchase are successful but retailers need to remain vigilant and aim for 100% compliance,” said Beckwith.

U.S. DEPARTMENT OF LABOR SCALES BACK OBAMA OVERTIME RULE

The United States Department of Labor (DOL) issued its long-awaited final rulemaking on employee overtime pay this week. The final rule updates earnings thresholds that must be reached to exempt executive, administrative, or professional employees from the Fair Labor Standards Act’s minimum wage and overtime pay requirements.

The new DOL rule raises the annual earnings threshold that triggers overtime pay (time and a half) for an employee working beyond 40 hours per week from \$23,660 to \$35,568. The annual earnings threshold increase will expand overtime pay eligibility to 1.3 million workers for the first time. The new, higher threshold accounts for growth in employee earnings since the currently enforced thresholds were set in 2004. Moreover, the final rule does not adjust the annual earnings threshold to inflation. Instead, any increase would require a new DOL rulemaking based on a determination of economic need.

The final rule replaces an Obama Administration rulemaking that raised the annual earnings threshold for overtime eligibility to \$47,476. The Obama rule would have expanded overtime eligibility to 4.2 million workers. However, a federal court enjoined the rule from going into effect. The new overtime rule was written in response to the federal court action. The final rule would also:

- allow employers to count a portion of certain bonuses and commissions towards meeting the annual salary level;
- raise the “standard salary level” from \$455 to \$684 per week (equivalent to \$35,568 per year for a full-year worker);
- raise the total annual compensation level for “highly compensated employees” from \$100,000 to \$107,432 per year; and
- allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the standard salary level.

The final rule takes effect on January 1, 2020.

E-CIGARETTES CONTINUE TO RECEIVE INTENSE REVIEW

This week, two House Committees held hearings on e-cigarettes.

Democrats want e-cigarettes to be banned until approved by the Food and Drug Administration (FDA) through the FDA’s premarket tobacco product application (PMTA) pathway. By May of next year, all manufacturers will have to apply for new product approval and FDA could grant approval for manufacturer’s flavored products to come back on to the market. Specifically, Acting FDA Commissioner, Ned Sharpless, wants to ban e-cigarettes not only from convenience and other non-adult only retail, but also from the Internet.

On September 11, the Trump Administration announced that the FDA plans “to finalize a compliance policy in the coming weeks that would prioritize the agency’s enforcement of the premarket authorization requirements” for flavored e-cigarettes other than tobacco-flavored e-cigarettes.

The announcement appears to reference the FDA’s March proposed draft Guidance “Modifications to Compliance Policy for Certain Deemed Tobacco Products.” A guidance document explains how a federal agency intends to administer and enforce current law and how those being regulated can comply with current regulations.

The March draft Guidance would apply to certain flavored electronic nicotine delivery systems (ENDS), but not tobacco-flavored, mint-flavored or menthol-flavored electronic products. The FDA explained in the March 2019 Guidance that its prioritized enforcement will focus on flavored ENDS products (other than tobacco-flavored, mint-flavored, and menthol-flavored ENDS products) “that are offered for sale in ways that pose a greater risk for minors to access such products.”

However, the announcement on September 11 indicates that the FDA will prioritize its enforcement on all flavored e-cigarettes except tobacco-flavored electronic nicotine delivery systems. This enforcement prioritization would likely include mint-flavored and menthol-flavored e-cigarettes because the announcement references preliminary results from the National Youth Tobacco Survey that “the overwhelming majority of youth e-cigarette users cited the use of popular fruit and menthol or mint flavors.”

It is important to understand that the final compliance policy that will be issued by the FDA will need to be analyzed to

determine exactly what enforcement actions the agency intends to take and to which electronic nicotine products the policy will apply. PMAA will update members once the FDA issues the final compliance policy.

In addition, last week, Representatives Pete King (R-NY) and Tom Suozzi (D-NY) introduced H.R. 4425, the "Quell Underage Inhaling of Toxic Substances Act" or QUITs Act. The bill would ban flavored e-cigarettes, raise tobacco taxes, establish equivalent tax on e-cigarettes, increase resources available to those who want to quit smoking, and more than double funding for the Centers for Disease Control and Prevention (CDC)'s Office on Smoking and Health from \$210 million to \$500 million.

FARM-STATE LAWMAKERS GROWING IMPATIENT FOR BIOFUELS DEAL WITH TRUMP ADMINISTRATION

This week, Sen. Chuck Grassley (R-IA) expressed his frustration with the Trump Administration over its delay to produce a biofuels package that would assist biofuel producers. Speaking to reporters this week, Sen. Grassley stated, "This agreement we have with the White House, it's 15 billion gallons, why isn't that the end of it? Let's either do our job or get off the pot. Let's call this thing to an end. We ought to have this paper from the EPA yesterday."

Grassley was referring to the potential deal brokered between midwestern senators and the Trump Administration two weeks ago after Vice President Mike Pence met with Sen. Grassley and other midwestern senators to discuss the issue of small refinery exemptions (SRE's) and what the administration can do to help farmers. According to reports, the potential deal would include a limit to the number of SRE's that EPA issues, an increase in the volumes of biofuels that must be blended into gasoline to 15 billion gallons and efforts to boost the spread of E15.

Sen. Grassley said that the delay is "hurting the president more in Iowa than even the China debate," referring to the trade war with China that is hurting rural farmers. He added, "I think farmers have patience with China, the negotiations going on with China. They know China has been cheating. What they don't understand is, they're promised 15 billion gallons of ethanol to be used but get 13.6 [billion gallons]." On Tuesday, an Iowa biodiesel plant, W2 Fuel, announced that it would be shutting down. Iowa Gov. Kim Reynolds (R-IA) responded to the news saying that the SRE's are hurting farmers in the state and something must be done to assist them. Gov. Reynolds attended the meeting with Sen. Grassley and other midwestern senators two weeks ago.

The administration is taking this action in order to shore up support among farmers who are angry over falling crop prices from stagnant ethanol blending volume and loss of market share due to the recent increase in SRE's and the ongoing trade war with China. However, the Trump Administration's plan is unlikely to satisfy renewable fuel producers because the higher blending volumes are not enough to offset the 4.2 billion gallons of renewable fuel lost to SRE's. The plan's expected unveiling could happen as soon as October 1.

HOUSE COMMITTEE MOVES UNION BILL

Labor to Propose to Improve Paid Family and Medical Leave

On Wednesday, the House Education and Labor Committee passed the, Protecting the Right to Organize Act, (H.R. 2474) by a partisan vote of 26-21.

Republicans strongly oppose the legislation; however, 208 Democrats are cosponsors of the bill introduced by Labor Committee Chairman Bobby Scott (D-VA). The bill would permit the National Labor Relations Board (NLRB) to level fines if employers terminate a worker wrongfully. The card-check provision would overturn a 1947 amendment to the National Labor Relations Act that made card check recognition for unions voluntary. Since then, only secret-ballot elections supervised by the NLRB have required employers to recognize unions. H.R. 2474 would also give the NLRB more power to punish employers for stopping a union campaign. It also would broaden the legal test for determining when companies in franchise and staffing, should be considered joint employers.

Four amendments from Democrats were also adopted that would clarify that an employer calling a worker an independent contractor is a violation of the National Labor Relations Act, would allow union elections through certified mail or electronically, at the workplace or at an outside location, and would prohibit employers from locking out workers.

Ranking member Virginia Foxx (R-NC) offered an amendment that would have renamed the bill the "Socialist Solutions for Unions Act." The good news is that the bill is dead on arrival in the GOP-controlled Senate.

Also, on Wednesday, the White House budget office began a review of a Department of Labor (DOL) request for comments on ways to improve the 1993 Family and Medical Leave Act. White House senior adviser Ivanka Trump has worked to advance paid leave legislation and Sens. Bill Cassidy (R-La.) and Kyrsten Sinema (D-Ariz.) released a paid leave proposal in July allowing parents to borrow money against future child tax credits. Further, Senator Kirsten Gillibrand (D-N.Y.) and Rep. Rosa DeLauro (D-Conn.) reintroduced a bill in February that would give workers 12 weeks of paid family leave.

FEDERATED INSURANCE TO SPARK A CONVERSATION AROUND FIRE PREVENTION IN OCTOBER

Non-residential fires cause an average of \$2.4 billion in property damage every year. More importantly, an average of 90 people lose their lives and 1,350 people are injured as a result of these fires every 12 months.* To help business owners prevent avoidable fires and the devastating consequences that come with them, Federated Insurance is running a campaign timed in conjunction with National Fire Prevention Week (October 6-12, 2019). This campaign is designed to equip recipients with practical, industry-specific risk management tools that can help reduce the risk of workplace fires.

Fire Prevention Week runs from October 6–12. It's a great opportunity to remind yourself and your employees of the importance of fire prevention, but it shouldn't be the only time of year you think about it.

For additional information or to discuss further, please contact your Federated regional representative.

FEDERATED INSURANCE RISK MANAGEMENT ACADEMY OFFERED NOVEMBER 5-7, 2019

Federated Insurance is offering complimentary risk management training **for all industries** on November 5-7, 2019. Through this valuable session, you will discover methods you can use immediately to help protect profits by reducing risk at your business.

Companies that are the most successful at controlling losses and protecting profits have integrated risk management into their overall company culture. Many have designated a key person as their risk manager. This person is supported by your company's top management and is both responsible and accountable for identifying loss exposures and implementing risk management solutions.

This seminar's objective is to help your risk manager learn the exposures specific to All Industries, connect with peers from across the country and apply these best practices within your business.

To reserve your spot in the upcoming session or for more information, please contact [Royetta Spurgeon](mailto:Royetta.Spurgeon@fedins.com) by email (rlspurgeon@fedins.com) or (800)533-0472 Ext. 455-5604 or visit <https://www.federatedinsurance.com/>.

PLAN TO ATTEND THE 2020 WPMAEXPO

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

October 14, 2019 - Hawaii (HPMA) - Golf Tournament - Oahu Country Club, Honolulu, HI

February 18-20, 2020 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

May 7-8, 2020 – Nevada NPM&CSA – Big Dogs - Las Vegas, NV

June 22-25, 2020 – Washington (WOMA) – Convention – Suncadia Resort – Cle Elum, Washington

August 5-7, 2020 – Idaho (IPM&CSA) Convention – Coeur d' Alene Resort – Coeur d' Alene, Idaho

August 17-19, 2020 – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, NM

September 9-10, 2020 – Utah (UPMRA) – Convention – Park City Marriott – Park City, Utah

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Petro Pete: “*To err is human; to admit it, superhuman.*”

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FOR SALE

2001 Kenworth T800 fuel truck and trailer with 2001 Onnen tanks. 12,800 gallons total capacity. \$79,000. Please call Guy or Justin at 208-765-2266 if interested.

