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2016 WPMAEXPO - LAS VEGAS, NEVADA

Mark your calendars for February 16-18, 2016. Make plans now to attend the 2016 WPMAEXPO. It will be held once again at the Mirage in Las Vegas, Nevada.

HOUSE PASSES SIX YEAR HIGHWAY BILL

Yesterday, the House passed a six year highway bill by a vote of 363-64. The House has not been able to pass a long term highway bill in nearly a decade, making this a significant first victory for the new Speaker of the House, Paul Ryan (R-WI). The original bill would have paid for just three years of funding, but an amendment adopted at the last minute could add an additional \$40 billion which could pay for the entire life of the bill. The legislation, known as the "Surface Transportation Reauthorization and Reform Act of 2015," must now be conferenced with the Senate passed bill which also authorizes six years of funding, but only pays for three years. Highway policy expires on November 20, so Congress must complete work on a conference report to prevent a gap in highway funding.

The House highway bill contains many provisions that are important to marketers. The provisions are outlined below:

Withdraws PHMSA's Wetlines Proposed Mandate for Good

On January 27, 2011, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a proposed rule regarding the transportation of gasoline in the external product piping (wetlines) on cargo tanks transporting flammable liquids. The proposed rule limited the amount of gasoline in each wetline to one liter. Transports usually have four wetlines – one per compartment. The proposed rule gave tank truck operators 12 years to retrofit existing tanks with bottom protection like steel rails or install purging equipment, and any trailer manufactured two years after the date of regulation would have to be equipped with in line purging devices or steel guard rails to shield the wetlines from impact.

PMAA led efforts to oppose the proposed rule and we are pleased the bill withdraws the 2011 wetlines proposed mandate. In the 2012 Highway Bill, PMAA saved marketers a minimum of \$8,000 per transport by asking Congress to include a provision which prevented DOT from arbitrarily adopting a wetlines mandate until a Government Accountability Office (GAO) report was completed. In September 2013, the GAO cited that DOT did not have adequate information to determine whether a wetlines device mandate was necessary to improve safety. The Highway bill puts an end to the 2011 wetlines mandate permanently.

Safety Data Postings/FMCSA's Compliance, Safety, Accountability Program (CSA)

In a significant step forward for petroleum marketers, the House highway bill requires DOT to commission a study on the accuracy of the CSA program and take steps to address problems in identifying risk and the use of crash data where a motor carrier was free from fault. Until the study and corrections are complete FMCSA would have to take down its safety scores for trucks and motor carriers. Similar language is included in the Senate highway bill.

Earlier this year, the Government Accountability Office (GAO) issued a critical report on the quality of the safety data used by the DOT to determine motor carrier safety. The GAO found that the safety data collected is not a reliable predictor of motor carrier safety. The CSA program uses data from enforcement activity, roadside inspections and accidents involving commercial motor vehicles to set individual motor carrier safety scores, which in turn are used to establish a predictive crash risk. Motor carriers with a predictive crash risk over a certain threshold are targeted for FMCSA intervention. Intervention begins with an initial warning letter followed by closer FMCSA oversight including targeted roadside enforcement and investigative safety audits. Carriers with the poorest safety ratings can be ordered out of service by FMCSA. The GAO report criticized the CSA data saying that of the 800 violations included in the motor carrier risk model, only two - speeding and failure to wear a seat belt, were reliable predictors of crashes. In addition, the CSA model was criticized for not including a sufficient amount of data on all carriers to establish a baseline risk for crashes. As a result, many motor carriers with no history of crashes have received a high predictive crash rate.

Financial Insurance Minimums

The bill requires the Federal Motor Carrier Safety Administration (FMCSA) to conduct a comprehensive study of passenger carrier industries' accidents and claims histories before being permitted to proceed to radically increase minimum insurance rates.

Gas Tax Alternative for States

Because Congress lacks the votes to pass a gas tax increase, the bill grants \$115 million towards a six year program that would allow states to demonstrate alternative methods to raise revenue for highways through a user fee. The grants will promote the safety and efficiency of commercial motor vehicle transportation, including the safety of drivers and passengers, and the safe transportation of hazardous materials.

EV Charging Amendment Withdrawn

During the House Transportation Committee markup, Reps. Napolitano (D-CA) and Jerry Nadler (D-NY), offered an amendment that would allow sales of EV charging stations and natural gas refueling infrastructure at highway rest areas. The amendment was ultimately withdrawn.

Highway Bill Amendments Striking Insurance and CSA Provisions Defeated

Two amendments that would have struck down Section 5501 of the highway bill were defeated. If passed, they would have paved the way for unnecessary increases to liability insurance requirements on companies.

One amendment, sponsored by Congresswoman Lois Frankel (D-FL), would have struck down insurance provisions and kept CSA (Compliance, Safety, Accountability) scores open to public view. The other amendment, sponsored by Congressman Hank Johnson (D-GA), would have also struck down the insurance provision.

PMAA joined other associations in writing a letter to House Transportation and Infrastructure Committee members to express our opposition to these amendments and support for Section 5501 of the House highway bill, the "Surface Transportation Reauthorization and Reform Act." Follow link to read the letter.

<http://www.pmaa.org/weeklyreview/attachments/Financial%20Responsibility%20Letter%20to%20House%20Rules%2011.2.15.pdf>

HOUSE HEALTH SUBCOMMITTEE PASSES MENU LABELING LEGISLATION

On Wednesday, the House Energy and Commerce Health Subcommittee passed important legislation dealing with menu-labeling. The legislation maintains the FDA's objective to provide customers with information they can use to make smart food choices, but it will protect small businesses from unnecessary costs and risks.

The "CommonSense Nutrition Disclosure Act": Requires restaurants, supermarkets, convenience stores, and other foodservice vendors to designate a "primary" menu where most customers make decisions; Clarifies that advertisements such as a coupon for Facebook post are not menus; Clarifies that menu labeling regulations only apply to food items sold throughout a chain, to preserve local and fresh food items that may only be sold at one or two locations; Permits businesses that offer variable made-to-order items that are tailored by the customer (i.e. pizza and sandwiches) to select one of various methods of providing useful calorie information most helpful to the customer; Permits businesses that mainly receive food orders remotely to provide calorie information on a remote access menu, such as one on the Internet, instead of an in-store menu board customers never see; Protects businesses from being penalized excessively for inadvertent human error; Places responsibility for compliance on corporate officials that design compliance programs and methods rather than local managers only implementing; Prohibits frivolous class-action suits; and, Extends the effective date of menu-labeling requirements to provide covered businesses the time to prepare and comply.

The bill now moves to the full House Energy and Commerce Committee. Last week, Senators Blunt (R-MO) and King (I-ME) introduced companion legislation in the Senate.

PMAA strongly supports the "Common Sense Nutrition Disclosure Act."

TRANSCANADA REQUESTS SUSPENSION OF KXL DECISION; OBAMA ADMINISTRATION REJECTS

On Monday, TransCanada reversed its strategy and asked the Obama Administration to suspend making a decision on the Keystone XL Pipeline (presumably to hold off for the next Administration). However, on Thursday, the State Department announced that it will continue forward with its review of the Keystone XL pipeline.

This follows the recent election of Canada's Prime Minister Justin Trudeau who supports development of the Keystone XL pipeline but is unlikely to lobby the pipeline as hard as his predecessor, Prime Minister Stephen Harper.

While a U.S. decision on Keystone XL has not been made, President Barack Obama has widely hinted that it may never be built. Harper predicted Keystone XL would be built under a subsequent administration even if Obama says no, as is expected. But that will depend on a Republican settling into the White House in 2017.

PMAA continues to fully support the approval of the Keystone XL pipeline.

BIPARTISAN GROUP OF 184 HOUSE MEMBERS SEND LETTER TO EPA OPPOSING RFS PROPOSAL

This week, 184 House members urged the EPA to lower the proposed 2016 corn ethanol mandate because it will likely breach the E10 blendwall if maintained at the currently proposed level. PMAA supported the letter and urged lawmakers to sign on. The letter stated, "The refueling retail infrastructure is even more limited with only 2 percent of retail stations selling E85 and only 100 stations nationwide selling E15." Follow this link to read the letter.

<http://flores.house.gov/uploadedfiles/rfs-letter-to-admin-mccarthy-11-4-2015.pdf>

In a hearing before two House Science, Space and Technology subcommittees earlier this week on the Renewable Fuel Standard (RFS), Congressional Budget Office (CBO) Senior Advisor Terry Dinan said that raising the corn ethanol quotas would cause a significant increase in E10 prices in 2017. CBO was created in 1975 to produce independent and nonpartisan analyses of budgetary and economic issues to support the Congressional budget process.

Dinan stated that E10 would increase by 15 cents to 30 cents per gallon if the corn ethanol mandate was raised to statutory levels. However, CBO said that a full repeal of the RFS would have almost no effect on fuel prices. CBO concluded by saying that it would be very difficult to maintain the current biofuels requirement because development of renewable fuels has not met Congress' expectations when the RFS was expanded in 2007. Additionally, meeting the current requirement of ethanol concentration would mean the ethanol blendwall would be breached forcing higher level ethanol blends that the market cannot safely and legally accommodate.

Earlier this year, EPA exercised its statutory authority to mandate blending volumes lower than those required under the Clean Air Act (CAA) after acknowledging factors that constrain availability including lack of certified refueling infrastructure and the current vehicle fleet. Ethanol blends move from 13.25 billion gallons in 2014 to 14 billion gallons in 2016, a one billion gallon decrease over the 2016 statutory blending mandate.

EPA is expected to release the final 2014, 2015 and 2016 RFS numbers by December 1, 2015.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

February 16 – 18, 2016 - WPMA Convention & Expo – Mirage Hotel, Las Vegas, Nevada

May 19-20, 2016 – Nevada (NPM&CSA) Big Dogs Shootout – Red Rock Resort & Casino – Las Vegas, Nevada

June 7-9, 2016 – Montana (MPMCSA) Convention – Fairmont Hot Springs Resort – Butte, Montana

June 20-23, 2016 - Washington (WOMA) Convention - Suncadia Resort - Cle Elum, Washington

August 3 – 5, 2016 - Idaho (IPM&CSA) Convention - Coeur d'Alene Resort - Coeur d'Alene, Idaho

August 22-24, 2016 – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, New Mexico

September 14-16, 2016 - Utah (UPMRA) Convention - DoubleTree Hotel by Hilton - Park City, Utah

June 18-22, 2017 – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington

June 17-21, 2018 – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington

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Petro Pete: "I'm good at multitasking and procrastinating, which means right now there are at least 28 things that I'm putting off until later."

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