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FDA ANNOUNCES NEW RESTRICTIONS ON SALES OF FLAVORED E-CIGARETTE PRODUCTS AT C STORES

Yesterday, the FDA announced that it would be placing restrictions on flavored tobacco products, including e-cigarettes. FDA Commissioner Scott Gottlieb unveiled a set of changes aimed at forcing the e-cigarette industry to better keep its products out of the hands of teens, including a proposal that would mandate (via compliance guidelines) that the majority of flavored electronic nicotine delivery systems (ENDS) only be sold in age-restricted facilities, including stand-alone tobacco retailers and vape shops, or facilities that have a section of the location that prevents the entry of persons under the age of 18. The FDA did not make proposed changes to unflavored or regular tobacco, or to menthol and mint flavored e-vapor products, so stores can continue to sell those products in the same locations.

The FDA announced that it is also considering a rulemaking banning traditional menthol-flavored cigarettes, a move that would be fiercely opposed by the tobacco industry and would likely take the issue to court. In addition to banning traditional menthol cigarettes, the FDA is looking to ban flavored cigars because the FDA believes that flavors in cigars appeal to the youth.

These policy changes will take time to fully implement, but Commissioner Gottlieb hopes that retailers and vaping companies will pick up the pace themselves. Earlier this week, Juul, one of the leading producers of e-cigarette products, announced that it would no longer produce their popular fruit flavored e-cigarette pods, such as cucumber, mango and fruit medley. In a statement, Gottlieb said, "We hope that within the next 90 days, manufacturers will choose to remove flavored ENDS products from stores where kids can access them and from online sites that do not have sufficiently robust age-verification procedures."

PMAA will keep its members updated as more details become available.

CONGRESS HINTS AT ADDRESSING TAX EXTENDERS BEFORE DECEMBER 31ST

As lawmakers returned to Capitol Hill this week, PMAA sent a letter today to House and Senate leadership in support of the biodiesel blenders tax credit that expired at the end of 2017. Senate Finance Chairman Orrin Hatch (R-Utah) said this week, "I'm not sure, but there usually is an extenders package, so we'll probably have extenders." PMAA urged Congress to pass an extension through 2019. Part of the extenders package also includes the nine cents per barrel Oil Spill Liability Trust Fund financing rate (OSLT) which expires on December 31st. PMAA is concerned that if Congress fails to act on tax extenders before the end of the year, jobbers may end up in the same situation they faced in early 2018 when some refiners continued to charge the tax even though it expired. This created unnecessary and problematic accounting problems throughout the industry. Congress can prevent the confusion from occurring again by extending the OSLT before December 31st. If Congress does not tackle extenders before December 31st but addresses it next year, PMAA urges Congress not to make the tax retroactive. Click [here](#) to read the letter and click [here](#) for a refresher on the OSLT.

Tax extenders legislation is normally addressed during the lame duck session. The roughly three-dozen provisions offer tax breaks for a range of interests, including race horses, auto racing tracks, railroad track maintenance, mortgage relief and other credits. Also of importance to petroleum marketers extended retroactively for 2017 is the tax credit for the installation of qualified alternative fuel vehicle refueling property in a home or business; the Alternative Fuels Excise Tax Credit for the use of propane as a transportation fuel, known as the "propane autogas tax credit,"; and the Section 25C tax credit for the installation of qualified high-efficiency residential HVAC systems and certain energy-saving home retrofits.

THOUSANDS OF TRUCKS PULLED OUT OF SERVICE DURING NATIONAL BRAKE SAFETY INSPECTION BLITZ

During National Brake Safety Week held September 16-22, inspectors conducted roadside inspections on 35,080 commercial motor vehicles (CMV) nationwide. Inspectors were looking for brake safety requirements under the federal motor carrier safety regulations. The annual brake inspection blitz is conducted by the Commercial Vehicle Safety Alliance (CVSA), an organization of federal and state motor carrier inspectors nationwide focused on safe operation of CMVs. CVSA sponsors a number of annual coordinated roadside enforcement actions including RoadCheck, held during the first week of June. Data from the brake enforcement blitz is important because it provides a snapshot of where inspectors are likely to focus their attention during roadside stops and the factors that lead to out-of-service orders.

According to CVSA, of the 35,080 trucks inspected, 4,995, or one in seven of all CMVs pulled over were issued out-of-service orders (OSO) for brake violations. A CMV is taken out of service when critical violations of FMCSA safety regulations are found. An OSO is issued and carried out on the spot. CMVs subject to OSO must be towed from the inspection site and not return to service until the safety defects are corrected. Brake violations make up a large percentage of all violations issued each year. FMCSA enforcement data for fiscal year 2018 shows that of the eight million roadside inspections conducted by motor carrier enforcement authorities, 1,045,335 trucks were found to have faulty brakes and were issued citations and/or removed from service. The FMCSA said CMV brake violations account for seven of the top

twenty most common violations found during roadside inspections during 2018.

During this year's brake safety week, CVSA inspectors focused on airbrake (ABS) requirements. CVSA inspectors found that of the 26,143 air-braked power units requiring ABS, 2,176 (8.3 percent) were in violation. In addition, inspectors found of the 17,857 trailers requiring ABS, 2,224 (12.5 percent) were in violation. Finally, there were 5,354 hydraulic-braked CMVs inspected by CVSA with 234 (4.4 percent) having ABS violations. The next National Brake Safety Week is scheduled for Spring 2019.

FMCSA SIMPLIFIES QUALIFICATION PROCESS FOR CDL DRIVERS WITH DIABETES

The U.S. Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA) is making it easier for CDL drivers with diabetes to stay behind the wheel. The FMCSA issued a final rule recently that revises medical qualification requirements permitting individuals with a stable insulin regimen and properly controlled insulin-treated diabetes to be qualified to operate commercial motor vehicles (CMVs) in interstate commerce. This rule is important to petroleum marketers because it eliminates onerous cost and administrative burdens imposed by the current annual diabetes exemption process. The final rule also gives the driver's treating physician far more input into the driver's medical fitness determination and qualification to drive.

Under the new FMCSA provision, a certified medical examiner (ME) is now able to grant a CDL driver with diabetes a certificate of medical fitness for up to 12 months at a time. The driver's treating physician must first provide a diabetes assessment form to the certified ME indicating that the individual maintains a stable insulin regimen and proper control of his or her diabetes. The certified ME is then responsible for determining if the individual meets FMCSA's physical qualification standards and can operate CMVs in interstate commerce.

The final rule eliminates the diabetes exemption program that required drivers to incur annual costs to renew and maintain their exemptions. The FMCSA estimates this will save the nearly 5,000 diabetic drivers currently holding a medical exemption more than \$5 million per year. The final rule will also save new diabetes exemption applicants and their employers approximately \$215,000 annually in opportunity and compliance costs related with the exemption program's waiting period. A copy of the final rule announced today is available at: [Driver Diabetes](#).

SENATE AND HOUSE LEADERSHIP ROLES NEXT CONGRESS

Elections were held this week to decide leadership in the Senate and GOP leadership in the House.

Senate

Current Majority Leader Mitch McConnell (R-KY) will remain in his role next Congress, though six-year term limits caused a shuffling among other party leadership. Majority Whip John Cornyn (R-TX) will no longer remain in the position. John Thune (R-SD), who is currently chairman of the GOP conference, will take Cornyn's spot.

John Barrasso (R-WY) will become conference chairman, a role that includes helping lead the Senate GOP communications effort. Roy Blunt (R-MO) will move from vice chairman of the conference into Sen. Barrasso's prior job as chairman of the Senate Republican Policy Committee. Joni Ernst (R-IA) will become the conference vice chairman.

As for Democrats, Minority Leader Chuck Schumer (D-NY) will remain in the position, with senior roles below him also remaining the same, including Minority Whip Dick Durbin (D-IL). Patty Murray (D-WA) was re-elected assistant Democratic leader and Debbie Stabenow (D-MI) will remain as the chairwoman of the Democratic Policy and Communications Committee.

House

Republican leader Kevin McCarthy (R-CA) recently won an election to be Minority Leader, beating the Freedom Caucus' Jim Jordan (R-OH). Rep. McCarthy will succeed retiring House Speaker Paul Ryan (R-WI) as the top House Republican. Steve Scalise (R-LA), the current party whip, was elected to be minority whip in the next Congress. Finally, Liz Cheney (R-WY) will be the new House GOP conference chairwoman.

As for Democrats, nothing is set in stone yet. House Minority Leader Nancy Pelosi (D-CA) said she will be the chamber's next speaker despite an effort to block her ascension by Rep. Seth Moulton (D-Mass.), who said he's "100 percent" confident there are enough House members lined up to block her. At this point there are numerous members lined up to challenge Pelosi and it is no longer a certainty that she will become the next Speaker of the House.

BICAMERAL COMMITTEE LEADERSHIP SUPPORT FOR 2019 INFRASTRUCTURE BILL

Possible Creation of Ways and Means Infrastructure Subcommittee

Incoming Senate Commerce Committee Chairman Roger Wicker (R-Miss.) reported this week that he'd love to work on an infrastructure package next year and he is open to suggestions, including "those outside the box," on financing.

Incoming House Transportation Chairman Peter DeFazio (D-Ore.) says he will require "a realistic pay-for" and that he is not getting into the border wall funding, that infrastructure "should stand alone."

Of particular significance, DeFazio and Rep. Earl Blumenauer (D-Ore.) talked with House Minority Leader Nancy Pelosi this week about the possibility of creating a Ways and Means subcommittee specifically for infrastructure, and Pelosi may be on board with the idea.

PLAN TO ATTEND THE 2019 WPMAEXPO



Mark your calendars for February 19-21, 2019. Make plans now to attend the 2019 WPMAEXPO. It will be held once again at the Mirage in Las Vegas, Nevada.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

February 19-21, 2019 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

May 2-3, 2019 – Nevada (NPM&CSA) – Big Dogs – Las Vegas, NV

June 4-6, 2019 – Montana (MPMCSA) Convention – Fairmont Hot Springs Resort – Fairmont, MT

June 20, 2019 – Utah (UPMRA) Summer Golf Classic - South Mountain Golf Course, Draper, UT

June 17-20, 2019 – Washington (WOMA) Convention – Suncadia Resort, Cle Elum, WA

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

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Petro Pete: “I got lost in thoughts. It was unfamiliar territory.”

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