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FUEL , FOOD & CONVENIENCE

OMEGA
west virginia oil marketers & grocers assoc.

August 2011 | Number 604

Make-A-Wish Fundraiser Kicks Off

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From the President ...

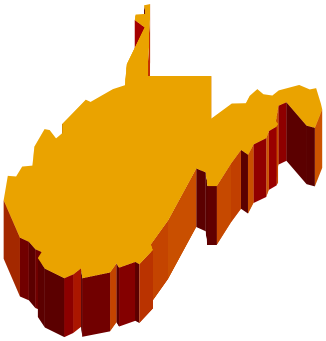
It is hard to believe, but we are at the halfway point in our **Make-A-Wish Charity Fundraiser.** We were honored to have Governor Tomblin purchase our first star during our kick-off event at the Capitol on August 1st. If re-orders of stars are any indication, your retail employees are doing a great job!

As a reminder, our Make-A-Wish Charity Golf Outing will be held September 22nd at The Resort at Glade Springs. **If you have not registered for this event, please visit www.omegawv.com to access registration forms or call the Association Office. If you have not made your room reservations, please do so today by calling 877.496.6039.**

As we have reported recently there is **increased enforcement activity by the Alcohol Beverage Control Administration in regards to underage sales of tobacco.** In the last report we received from the ABCA, 185 stores were visited and 21 failed compliance checks. They yielded a 11.89% buy rate. Several of the operations who failed are OMEGA members. We must do a better job in training our employees not to sell age-restricted materials to minors. **For materials to train your employees, please visit www.wecard.org.**

By now you know that OMEGA and WV Trucking Association are partnering with ***The State Journal* in the Direct Message Program.** OMEGA partnered with *The State Journal* in 2009 and the publication received rave reviews and was a big success! *The State Journal* is allowing us to do a "flip" publication so that each association will have a cover for the publication. Both Associations believe strongly that increased public awareness of key issues impacting our industries is needed and our partnership with *The State Journal* is an excellent opportunity for us to get out our message. To help cover the cost of publication *The State Journal* will sell advertising and your support is needed to make this project possible. OMEGA and WVTA must make a financial commitment in advertising sales to participate in the Direct Message Program. **If you would be willing to advertise in this publication, please contact the Association Office.**

*Pictured on front: **Marisa Pedro** of Make-A-Wish, **OMEGA Chairman Sandra Morgenstern** of Par Mar Stores, **OMEGA President Jan Vineyard**, **Governor Earl Ray Tomblin**, **Joe Kester** of Prima 7-Eleven, **Kim Dunlap** of One Stop and **Bobbie Spear** of Make-A-Wish.*



West Virginia News

Governor Tomblin Announces Sixth Consecutive Decrease in Loss Cost Rates for Workers' Compensation Insurance

West Virginia business leaders praise actions taken by state leaders

Gov. Earl Ray Tomblin, joined by business leaders, has announced that the West Virginia Offices of the Insurance Commission has approved of a reduction in loss costs rates for workers' compensation insurance from the National Council on Compensation Insurance Inc. (NCCI).

This filing will result in an overall **decrease of 8.1 percent and a projected premium reduction of $31 million for all West Virginia employers.** The new loss cost will become effective on November 1, 2011.

"West Virginia employers and their employees have benefited from tough decisions made by West Virginia's leaders over the past several years. By addressing serious problems in the former state run workers' compensation program, we have successfully put West Virginia in a competitive position for continuous job growth and these new workers' compensation rates reflect that," said Governor Earl Ray Tomblin.

Loss cost is the estimated amount necessary to pay all medical and indemnity costs associated with workers' compensation claims. Because loss cost is developed for each individual classification, some employers will see their loss cost increase while others will experience varying decreases or no change. All workers' compensation insurance carriers use loss cost to calculate rates.

Out of 590 classifications, 497 will decrease, 62 will increase, 24 will see no change, and there are now seven new class codes. Close to 95 percent of West Virginia employers' payroll is in loss cost classifications that are declining or remaining neutral.

"This is fantastic news not only for the business community, but for all of West Virginia," said Janet Vineyard, President of West Virginia Oil Marketers and Grocers Association. "The bold decision to privatize the workers' compensation program several years ago made today's announcement possible."

"This additional reduction in workers' compensation costs will further improve the job climate in West Virginia and demonstrates that passing workers' compensation reform has, once again, proven to be in the best interests of West Virginia's future," said Steve Roberts, President of the West Virginia Chamber of Commerce. NCCI is West Virginia's rating and statistical agent that calculates and files the loss cost based on an actuarial analysis. NCCI also provides services to 38 other states.

W.Va. Business Court Moves One Step Closer to Reality

Although the West Virginia Supreme Court of Appeals has not fully approved a business court, it did give a nod of approval to it when it directed the business court committee to develop rules and procedures to create one.

The court also directed the committee to decide if the West Virginia Code needs to be changed in order to accommodate the new system. These changes would be implemented in the next legislative session.

According to a news release from the Supreme Court, the proposed business court, or complex commercial litigation court, would have jurisdiction across the state and would handle cases involving contract disputes between multiple businesses, sales and commercial code disputes, non-consumer debts, shareholder disputes, non-competition agreements, intellectual property disputes, malpractice lawsuits involving corporations and torts between businesses.

“The goal of this committee is to design a court that can focus on the complex issues that arise in commercial litigation that can get bogged-down in a busy circuit court docket and also to relieve busy circuit court judges from a significant burden of handling a novel or complex issue that they may not be equipped to handle,” Judge Darrell Pratt, chairman of business court committee, said in the release.

Parties can either file a certificate of designation or a presiding judge can direct a case to complex commercial litigation court.

Between five and seven circuit court judges will be appointed by the Supreme Court to serve three- to seven-year terms on the business court.

State Unemployment Fund Update

West Virginia’s Unemployment Reserve Fund had a balance through June 2011 of over $100 million. Our state is one of a small handful in that nation that has not been forced to borrow, with interest, from the federal unemployment compensation plan. Congratulations to all for the fiscal conservatism that has preserved West Virginia’s ability to pay benefits without the need for costly borrowing.
The Unemployment Reserve Fund balance as of June 31st was $101,132,093.

Special Session Update

Governor Earl Ray Tomblin has signed SB 1005, which passed during the Special Session. This bill provides $62.5 million to the **State Road Fund** for road maintenance, bridge repair and replacement, and general operations among others.

During the Special Session, Governor Tomblin initiated a **phase-out of the consumer sales and service tax, "sales" tax, on the purchase and use of food and food ingredients** intended for human consumption by January 1, 2014, contingent upon certain balances in the Rainy Day Fund. "I believe it is time to give back to the people of West Virginia," Gov. Tomblin said. "I am calling for a responsible phase-out of the food tax to begin next January so long as our emergency revenue fund remains strong and stable. To help ensure our fiscal health for future years.” The state's Rainy Day Fund is a reserve account used exclusively to respond to emergency situations such as disaster relief. Currently, state code requires half of any fiscal year end surplus be deposited into the Rainy Day Fund until the account reaches ten percent of the state's General Revenue Fund. The Legislature did pass the bill that will drop the tax to 1 1/2 percent on January 1, 2012, 1 percent in July 2012 and the following year the tax would be completely eliminated. Eventually, the houses agreed to set the level at 13 percent.

The House of Delegates did pass a **redistricting bill** during the recent Special Session, however the bill contained technical errors and was vetoed by Governor Tomblin. The Legislature will reconvene on Thursday, August 18th to focus on this issue.

OMEGA Scholarships

In May, we announced the names of the recipients of six $1,000 scholarships. Following is a picture of our last scholarship recipient.

Miranda Grace Cummings is the daughter of Michael Cummings who is employed by Shop n-Save in Fairmont, WV. In the Fall, Miranda will attend Davis and Elkins College and major in Spanish and Math Education.

Federal Issues

Congress will be in recess until September 6th.

Budget Control Act of 2011

On Tuesday, August 2, the debt crisis was resolved (at least until S&P downgraded the nation's credit rating) with enactment of the Budget Control Act of 2011. Under the terms of the legislation, the debt ceiling will be increased in two steps. First there will be an immediate $900 billion increase in the debt ceiling from $14.3 trillion to $15.2 trillion. $500 billion of the initial increase will be subject to a congressional resolution of disapproval, which the President could veto. This allows the debt ceiling to rise without conservatives having to vote for an increase.

Accompanying the first debt increase will be $935 billion in savings for fiscal years 2012 through 2021 through statutory caps on discretionary spending. (Note: Spending from the Highway Trust is counted as mandatory budget authority and would not be subject to the cuts; however, highway spending will still need to be cut by roughly one-third to match tax receipts with spending, unless other funding sources are identified.)

A second increase of either $1.2 or $1.5 trillion will be available later. The amount of increase will depend on whether Congress enacts additional spending cuts. The legislation creates a new Joint Select Committee, comprised of six Democrats and six Republicans, evenly divided between Senate and House Members, whose task it will be to come up with the additional cuts. The Committee must produce legislation by November 23rd (the day before Thanksgiving) that will reduce spending by at least $1.2 trillion. The House and Senate will be required to give the proposal an up or down vote by December 23, 2011 (thereby virtually guaranteeing Congress will be in session through that date. . .).

If Congress enacts cuts of $1.5 trillion or more, the debt ceiling will increase by $1.5 trillion. If Congress enacts cuts that total less than $1.5 trillion, or if Congress does not enact any legislation, the debt limit will increase by $1.2 trillion. However, if Congress does not approve a package, or if the Joint Committee cannot reach agreement on a package, then automatic across-the-board cuts will go into effect.

While perhaps not ideal, the final legislation gave both the Republicans and Democrats their "must haves". For Republicans, the Act ensures that cuts will exceed the increases in the debt limit, and the proposal does not include tax increases. For Democrats, the legislation prevents another debt limit fight before the Presidential election, and largely leaves entitlement programs intact.

How the IRS Distinguishes Between Contractors, Full-Time Employees

Contracting out work instead of hiring full-time employees can help small-business owners save money by not having to withhold taxes or pay certain benefits; businesses should take care, however, to make sure they are classifying their workers correctly, writes management counselor Ron Consolino. Contractors must be allowed to determine when and where they work and have the freedom to pursue other clients, or else the Internal Revenue Service may view them as full-time employees and hit your small business with fines when you file your tax returns.

Court Rules Mandate of Health-Care Reform Law Unconstitutional

On Friday, August 12, the U.S. Court of Appeals for the 11th Circuit in Atlanta ruled that the individual mandate – the provision of the health-care reform law that would require most Americans to buy health insurance – is unconstitutional. The holding came in a lawsuit filed by 26 states that was first heard by a federal judge in Florida. While the Florida judge struck down the entire health-care reform law, the 11th Circuit did not go as far. By a 2-1 vote, the three-judge appellate panel agreed with the lower court on the unconstitutionality of the individual mandate. But the appellate court concluded that the rest of the law, including the employer mandate, is severable from the unconstitutional portion, which means that those other provisions can stand.

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Bob Zampini | (330) 757-0089 | robert.zampini@bp.com

Important Message from R.J. Reynolds Tobacco Company

Call to Action: Why public policy issues matter to you and your business

Dave Riser, vice president external relations - trade marketing
Steve Kottak, director external relations – trade marketing

Despite the enactment of federal regulation of tobacco products (FDA), the category continues to attract the attention of federal, state and local legislators and regulators.
Considering that cigarettes and other tobacco products represent nearly 40% of in-store convenience store sales, adverse legislation could cripple a retailer's sales, foot traffic and profitability— and have resounding effects on employment and overall business growth.

So what can you do?

- Build Relationships with federal, state and local elected officials.
- Stay Informed on Issues.
- Make Your Voice Heard.

Your voice is important. While legislators receive a great deal of information from their staff, professional lobbyists and many others, the views of their constituents in many cases are what actually influences them.

You may tell yourself that you can't make a difference in how tobacco issues are addressed in your area. However, as a local business, large or small, and a valued member of your community, you play an important role in job creation and overall economic development in your state and localities.

Your elected officials, at all levels of government, represent your interests, and they want and need to hear from you. Take the time to educate your legislators about how proposals they consider put pressure on your business and put jobs at risk in their district. It's also important to remind your representatives that you are a constituent, you pay taxes and you create jobs.

Remember: You can play a large part in the legislative process by building and strengthening your relationship with legislators, making your opinions known, and speaking out against tobacco policies that negatively affect your business and jobs.

Thank you for all you do. Together, we can make a difference.

For more information, go to R.J. Reynolds' web site: www.NoCigTax.com

Bills Introduced to Exempt Cigars from FDA Regulations

The International Premium Cigar and Pipe Retailers Association has introduced bills in the U.S. House and U.S. Senate to exempt both large and premium cigars from possible Food and Drug Administration tobacco regulations. The bill introduced in the U.S. House is H.R. 1639 and the bill introduced in the U.S. Senate is S. 1461. Specifically, the bills state: "Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves traditional large and premium cigars." The legislation also defines traditional large and premium cigars as (1) any roll of tobacco that is wrapped solely in leaf tobacco, contains no filter, and weighs at least 6 pounds per 1,000 count and (2) does not include a cigarette or a little cigar as defined under federal law.

Swipe Fee Repeal Resolution Rejected

The banks are at it again, seeking to kill the Durbin amendment, and were again unsuccessful.

At the National Conference of State Legislatures' (NCSL) Legislative Summit thousands of state legislators exchanged ideas on the most pressing issues facing state legislatures.

Among them, members of the Communications, Financial Services and Interstate Commerce Committee considered a resolution to repeal the Dodd-Frank Wall Street Reform and Consumer Protection Act, which includes the Durbin swipe fees reform amendment. The resolution, brought up by Texas state Rep. Dan Flynn, included this proposal:

Another example of federal intervention in the pricing of financial products is the rate caps placed on interchange fees for debit cards; the Dodd-Frank Act takes the pricing of these services from the marketplace and places it in the hands of the Federal Reserve; the most recent proposal from the Federal Reserve would so severely restrict interchange fees that banks and credit unions will be unable to cover the full costs associated with providing checking accounts and debit cards; as a result, banks and credit unions will be forced to cease offering some debit and checking products and to increase fees on those they continue to provide; lower income citizens who have obtained greater access to affordable retail banking, partly because of interchange fees, will have less access to traditional institutions and be forced to go back to the less regulated "shadow" banking system with its increased costs…National Conference of State Legislatures hereby respectfully urge the Congress of the United States to repeal the Dodd-Frank Wall Street Reform and Consumer Protection Act; and, be it further resolved, that a copy of this resolution be sent to all members of the 112th Congress and the President of the United States.

Significant grassroots pressure from the retail community at the state level, including state convenience and fuel retailing associations and members of the Merchants Payments Coalition, forced Rep. Flynn to reluctantly make a motion to strike all language that referenced swipe fees, which was then accepted by the committee. The revised resolution failed to pass the committee.

Despite their recent string of defeats, the banking industry will likely continue to chip away at the new financial services reform law at every level of government. NACS will continue to ensure that progress made on this issue is protected.

Oil Marketers Update

Federal Tax Rate Changes for Aviation Gasoline and Aviation (Jet) Fuel Used for Noncommercial Aviation

Due to the recent expiration of funding authority for the Federal Aviation Administration (FAA), the federal motor fuel excise tax (FET) rate for aviation gasoline and aviation (jet) fuel for noncommercial aviation* expired as of July 23, 2011. However, the 4.3 cpg deficit reduction surcharge tax on both fuels authorized under different legal authority during the Clinton Administration and the 0.1 cpg LUST tax are unaffected by the expiration of FAA funding authority and remain in place. The federal excise tax on aviation gasoline and aviation fuel for noncommercial aviation will likely be reinstated later this year once Congress passes an FAA reauthorization bill.

NEW REDUCED FEDERAL EXCISE TAX RATES FOR AVIATION GASOLINE AND AVIATION (JET) FUEL FOR NONCOMMERCIAL AVIATION:

New reduced federal motor fuel excise tax rates are in effect for aviation gasoline and aviation (jet) fuel for noncommercial aviation. The FET rate reduction is due to the failure by Congress to reauthorize FAA spending authority. The reduced FET rates take effect July 23, 2011 and will remain in place until Congress reauthorizes the FAA. It is difficult to speculate when reauthorization will occur as Congress has adjourned until after Labor Day and is expected to resume the current legislative gridlock once members return in September. Until FAA spending authority is reauthorized, the following federal excise tax rates apply as of July 23, 2011 (note FET rates include the 0.1 cpg LUST tax which is paid by the position holder above the terminal rack):

- Aviation gasoline is reduced from 19.4 cpg to 4.4 cpg.
- Jet fuel used for noncommercial aviation is reduced from 21.9 cpg to 4.4 cpg.
- Jet fuel used in commercial aviation remains unchanged at 4.4 cpg.

FLOOR STOCKS: Marketers who purchased taxed aviation fuel or aviation gasoline before July 23, 2011, and hold that fuel on July 23, 2011, are not entitled to a credit or refund for the difference between the pre-July 23, 2011, FET rates and the reduced rates effective on July 23, 2011.

*Noncommercial Aviation under the Internal Revenue Code (IRC) means any use of an aircraft not described as "commercial aviation". The IRC defines commercial aviation as any use of an aircraft in the business of transporting persons or property by air for pay. Commercial aviation does not include any of the following uses; any use exclusively for the purpose of skydiving; certain air transportation by seaplane; any use of an aircraft owned or leased by a member of an affiliated group and unavailable for hire by nonmembers; any use of an aircraft that has a maximum certificated takeoff weight of 6,000 pounds or less, unless the aircraft is operated on an established airline. For additional information on noncommercial aviation information on noncommercial aviation contact PMAA Regulatory Counsel Mark S. Morgan at mmorgan@pmaa.org or (202) 364-6767.

EPA Delays Smog Rule Indefinitely

The Environmental Protection Agency (EPA) has announced that it would delay its final rule curbing ground-level ozone. This marks the fourth time the agency has delayed issuing the rule. The EPA said the rule is going through the normal regulatory review process at the Office of Management and Budget. It did not indicate when the rule would be issued.

The proposed standard would limit ground-level ozone, or smog, to between 60 and 70 parts per billion (ppb). Nearly every county in the country would fall into non-attainment requiring marketers to invest in equipment to help meet the tighter standard as states would adjust their SIPs to comply with the new rule.

PMAA Priority Issues Update

- **Biodiesel Tax Credit.** The one dollar-per-gallon biodiesel tax credit expires on December 31, 2011. In December 2010 Congress approved a one year extension of the one-dollar-per-gallon biodiesel tax credit. It also applies retroactively to December 31, 2009. PMAA will lobby for another extension for 2012.
- **Climate Change Cap and trade legislation that was passed by the House and introduced in the Senate is likely dead for 2011 and 2012.** There is not enough bipartisan support for comprehensive climate legislation that imposes unrealistic restrictions on carbon emissions. EPA has promulgated several rules to restrict carbon emissions from large emitters; however, those rules are being challenged in the courts. House and Senate legislators have introduced bills to limit EPA's authority to regulate carbon but without any overwhelming bipartisan support, those measures won't be enacted.
- **Commercialization of Rest Stops.** Some state governments are lobbying Congress to change the law to allow states to commercially develop rest stops and to allow state electric charging infrastructure at rest stops. The Administration supports such proposals. PMAA continues to assertively oppose commercialization of rest stops.
- **Ethanol Blend Wall.** EPA approved E15 fuel for cars made after 2001. Many barriers to E-15 exist and retailers are advised not to sell E-15 until legal issues are resolved. PMAA supports reintroduction of the Renewable Fuels Marketing Act of 2010 in this Congress, which would include limited retailer liability language to provide a legal and regulatory pathway for marketers to sell mid-level ethanol.
- **Ethanol Tax Credit/Ethanol Import Tariff.** The 45 cents-per-gallon ethanol blender's tax credit and ethanol import tariff expires on December 31, 2011. The ethanol tax credit has come under scrutiny this year due to deficit concerns. A proposal is pending in the Senate which would end the ethanol blender's credit on July 31, 2011. The savings from ending the credit early would go towards deficit reduction and extension of the alternative refueling infrastructure tax credit which would allow marketers to claim up to 20 percent of the cost for purchasing blender pumps and UST systems intended to market E15 – E85 blends.
- **FTC's Red Flag Rule.** Last year Congress designated creditors under the FACT Act as any company that obtains a consumer credit report or provides information to a consumer credit reporting agency, thereby making all such companies responsible for implementing identity theft prevention programs. PMAA is urging Congress to revisit this and focus the rule on businesses whose primary purpose is to provide consumer financing.
- **Futures Market Reform.** Futures market reform language was included in the "Dodd-Frank Wall Street Reform and Consumer Protection Act," P.L. 111-203. PMAA is working to make certain reform is implemented in regulation. PMAA has submitted fifteen comments to CFTC proposed rules and is fighting for full funding to implement the derivatives language.
- **Health Care Reform Employer Mandates.** The controversial healthcare law is uniquely unfair to petroleum marketing and convenience store companies. In 2014, companies with more than 50 employees will have to pay hundreds of thousands of dollars in penalties if health insurance is not provided to all full time (30 hours per week) employees. PMAA is supporting legislative efforts to repeal the healthcare law.
- **Heating Oil Efficiency Tax Credits.** PMAA is working with a coalition to focus efforts on the Congressional Tax Committees to expand tax credit availability to more oilheat equipment.
- **Highway Bill/Gas Tax Increase.** It is unlikely that Congress will vote to increase gasoline and diesel excise taxes in 2011. Because of the need for greater highway infrastructure funding, many groups have decided to support an increase in the federal fuel excise tax in order to build up the depleted highway trust fund. PMAA is concerned about the impact of raising federal taxes and subsequently requiring state governments to raise taxes to comply with the requirements for matching funds.
- **Interchange Fees**. Senator Durbin's language that was signed into law in 2010 (P.L. 111-203) allowed retailers to offer discounts based on payment type and to place credit card purchase minimums not to exceed ten dollars. It also gave the Federal Reserve the authority to set debit interchange fees. The Federal Reserve released its proposed rule in December. In June 2011, the Fed released its final rule, which capped debit swipe fee rates at 21 cents per transaction and included a 0.05% ad valorem tax. The final takes effect October 1, 2011.

Separate from the Federal Reserve, the Department of Justice released its consent decree, which aims to address some of Visa and MasterCard's anticompetitive practices related to credit cards. Petroleum marketers may offer discounts, incentives, and other benefits to encourage customers to use a particular form of payment, brand or type of credit card. The consent decree is specific to credit cards and does not deal with debit or address fees.

- **LIFO Accounting.** PMAA is opposed to the Administration's and congressional efforts to repeal LIFO and we have communicated those concerns to Congress.
- **LIHEAP and LIHEAP Reform.** LIHEAP was appropriated $4.71 billion for FY 2011. The proposed 2012 budget would cut the program down to $2.57 billion. PMAA continues to lobby for the full authorized level of $5.1 billion and we continue to express our concerns about margin over rack programs and leveraging policies.
- **National Oilheat Research Alliance.** Bipartisan NORA legislation, S. 949 and H.R. 1756 were introduced in May. Both bills promote oilheat efficiency, research and education by reauthorizing, strengthening and making important technical corrections to the National Oilheat Research Alliance Act of 2000. Your efforts have already garnered over 45 House cosponsors and 14 cosponsors in the Senate.
- **Natural Gas Act.** This Act would promote purchase of vehicles with tax credits: $7500 for a 8500 lbs vehicle, $16,000 for 14,000 lbs, $40,000 for 26,000 lbs, and $64,000 for more than 26,000 lbs. It would provide a producers credit for vehicles fueled by NG or LNG, making up 10% of the basis cost or $4000, with an aggregate credit of $200 million. Pump installation credits of 50% or $100,000 are also included in the bill.

PMAA maintains that the existing gasoline station market must have access to natural gas when needed. Furthermore, direct grants up to $300,000 for petroleum marketers will be needed.

- **PACT Act.** The PACT Act, P.L. 111-154, restricts phone, internet and mail order tobacco operations. PMAA continues to monitor the implementation of the Act.
- **Repeal of 1099 Reporting Mandate.** Section 9006 of the Healthcare Reform law, mandated businesses to send Form 1099s for every vendor of $600 or more for both property and services beginning in 2012. Fortunately, due to strong communication from petroleum marketers and most retail groups nationwide, repeal legislation was passed by both bodies of Congress and was signed into law in April, 2011.
- **Stage II: Widespread Use.** The EPA announced that "widespread use" of onboard refueling vapor recovery (ORVR) systems will be achieved nationally on June 30, 2013. PMAA had several discussions with EPA about the need to determine when widespread use has been achieved and urged the agency to make that determination.
- **TIRPA.** PMAA strongly opposes the three percent withholding provision of the "Tax Increase Prevention and Reconciliation Act" (TIRPA). There are three bills pending in the House and Senate to fully repeal Section 511 (H.R. 674, S. 89 and S. 164). PMAA supports this legislation to fully repeal the three percent withholding requirement.
- **Tribal Gaming Bill.** PMAA is urging Congress to support S. 771, the Tribal Gaming Eligibility Act which would provide guidance and standards for the determination for eligible land for use in development of Indian reservation casinos and other businesses.
- **Underground Storage Tanks.** The President and Congress continue to underfund the LUST program around levels of $115 million which is well short of the $200 million the Energy Policy Act of 2005 authorized per fiscal year. Congress will have to extend the 1/10 cents per gallon LUST tax before it expires on Sept. 30, 2011.
- **Wetlines.** The House Transportation Committee approved a wetlines provision in the previous Congress but adjourned before moving the language further. DOT released its proposed rule in January 2011. The rulemaking is likely to be completed before any wetlines purging mandate becomes law. PMAA filed comments urging DOT to withdraw the proposed rule citing incorrect data and perform a cost-benefit analysis with accurate data. We are working with Congress to communicate to DOT.

NEW CAFÉ Standards Target 40 Percent Reduction in Fuel Consumption by 2025

The Obama administration and major auto manufacturers agreed recently to raise fuel economy standards for cars and light trucks over an eight year phase-in period. The agreement would require U.S. vehicle fleets to average 54.5 mpg by 2025. The new standard, once fully implemented, would represent a 50 percent cut in greenhouse gas emissions and a 40 percent reduction in fuel consumption compared with today's vehicles.

The proposed standard falls short of the 62 mpg standard advocated by environmental groups but represents a huge decrease in tailpipe emissions. The proposal would require an annual five percent mpg improvement between 2017 and 2025 for automobiles. Light trucks and SUVs would be required to achieve a 3.5 percent annual mpg improvement between 2017 and 2021 followed by a five percent improvement through 2025. The proposal would build on the first ever national program for vehicle greenhouse gas emissions limits established in 2010.

Currently, automobiles are required to reduce greenhouse gas emissions to 250 grams per mile of carbon dioxide equivalent by 2016. Under the new fuel efficiency proposal, greenhouse gas emissions would be reduced still further to 163 grams per mile of carbon dioxide equivalent by 2025. In 2010, the U.S. car and light truck fleet averaged 28.3 mpg and 314 grams per mile. The EPA is scheduled to announce the agreement later this week followed by a proposed rule before the end of the year.

Grocery Highlights

N.G.A. & Industry Requests 6-Month Delay on Nutrition Labeling of Single-Ingredient Products and Ground or Chopped Meat and Poultry Products

N.G.A., along with other industry organizations, is requesting a 6-month delay of the Final Rule on Nutrition Labeling of Single-Ingredient Products and Ground or Chopped Meat and Poultry Products. The current effective date is January 1, 2012. FSIS stated in the Final Rule they would make available nutrition labeling materials that can be used at the point-of-purchase of the major cuts, and conduct meetings and Webinars on the final rule 6 months prior to implementation, but FSIS has completed neither. Due to the significant burden on food retailers and meatpackers, and the lack of information provided by FSIS, it will be very difficult to have systems in place and training completed to meet the January 1, 2012 deadline.

To help our members understand the regulation further, N.G.A. has created a Resource Guide that breaks down the final rule and includes relevant Questions and Answers from the USDA's website that was posted on June 9, 2011.

Visit www.nationalgrocers.org to download a pdf of N.G.A.'s Guide to the USDA Final Rule for Nutritional Labeling of Ground or Chopped Meat and Poultry Products and Single Ingredient Products. An updated poster for the whole muscle cuts is currently being approved by USDA and will be available in the coming weeks.

If you have questions or comments, you may contact Greg Ferrara or Tom Wenning.

FMI Names Director, Food Safety Programs

The Food Marketing Institute (FMI) has appointed Terry Levee its director of food safety programs. In his new role, Levee develop and implement programs and activities to help retail and wholesale food companies meet critical food safety needs. He will report to Hilary Thesmar, FMI's VP of food safety programs.

"In addition to Terry's 25 years of service in the food safety and quality assurance sector, he was also an active member of FMI's Food Protection Committee," noted Leslie G. Sarasin, president and chief executive officer at Arlington, Va.-based FMI. "He will help ensure our food safety efforts have a practical grounding of utmost importance to our members."

Levee's extensive industry experience includes positions at two FMI member companies, Giant Food/Ahold USA and Winn Dixie Stores Inc. At Giant, he monitored company-wide food safety performance to ensure all practices met Ahold, Giant, local, state, county and federal food safety standards and regulations. Before coming to Giant, Levee was for 19 years Winn-Dixie's technical, scientific and regulatory expert for all food safety and retail quality assurance issues and programs.

Levee is a member of several organizations, including the Association of Food and Drug Officials, and is a member of the executive board for the Conference for Food Protection.

Grocery Shoppers Want More Than Low Prices

For retailers, price and promotion have been the name of the game as the U.S. economic recovery continues at its sluggish and uneven pace. But, according to a consumer survey released by AlixPartners LLP, when it comes to choosing a grocery store, shoppers say food quality and store atmosphere remain equally as important considerations as price. According to the survey:

- 70 percent of consumers are making trips to the grocery store at least once per week a
- 50 percent plan to spend more on groceries in the coming year
- 39 percent expecting to spend the same amount

While perishable quality, store atmosphere and price are the primary factors influencing consumers' grocery store choice, the survey showed "frequent sales and promotions" are a factor, and can have a big impact on shoppers' in-store purchasing decisions. The survey found:

- 86 percent of shoppers indicated they use a shopping list at least "sometimes,"
- 79 percent use coupons when developing those lists.
- Despite careful preparation ahead of grocery-shopping trips, 93 percent of those surveyed said that product displays and in-store signage — which typically point to promotional and sale items — can influence them to purchase items not on their shopping list
- 79 percent of those surveyed indicated that in-store product sampling can persuade them to purchase new items

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MAKE-A-WISH.

Awards Banquet
&
Charity Golf Outing
September 21 & 22

Glade Springs Resort
Daniels, WV

Deadline to return registration materials is September 7th. Sign up today!

Brickstreet INSURANCE

Safety Corner

Have you checked with your agent to see if you are eligible for a 6.1% discount on your workers' compensation premium through BrickStreet?

Miscellaneous

Federated Earns A Rating for Financial Strength

Federated Life Insurance Company is proud to announce that once again it has earned an "A" ("Excellent") rating for financial strength from Weiss Ratings, the nation's leading independent provider of ratings and analyses of financial services companies, mutual funds, and stocks. Less than two percent of the nation's life and health insurers meet Weiss Ratings' criteria for exceptional financial strength.

Melissa Gannon, Vice President of Weiss Ratings, wrote, "This rating recognizes Federated Life Insurance Company as an outstanding insurer, offering excellent financial stability for its customers, vendors, and employees."

MEMO Celebrates 25 Years

Merchants Express Money Order Company, Inc. (MEMO), a leading money services business, is celebrating 25 years of quality products and services this year. MEMO has grown to become one of the nation's largest money services businesses. MEMO offers a range of money service products that meet the needs of consumers, such as money orders, bill payments, prepaid wireless and long distance calling cards, and debit and credit card /EBT processing services. We encourage you to take advantage of the services MEMO provides. For more information contact Autumn Thomas at (717) 760-5901 or visit www.memoco.com for more information.

Welcome to New Members

A.J. Silberman Co.
267 Blue Run Road
Indianola, PA 15051
Phone: (412) 455-1011
Fax: (412) 455-1012
Email: garygl@silbermans.com
Web site: www.silbermans.com
Contact: Gary Gloeckl, V. P. Sales

Oilmen's Truck Tanks, Inc.
P.O. Box 2807
Spartanburg, SC 29304
Phone: (937) 545-6601
Fax: (864) 585-3635
Email: dmulcahy@trucktanks.com
Web site: www.trucktanks.com
Contact: Dan Mulcahy, Sales Representative

Calendar of Events

Make-A-Wish Awards Banquet & Golf Outing
September 21 & 22
The Resort at Glade Springs
Daniels, WV

September 30 - October 1
PMAA Annual Meeting
Hilton Chicago
Chicago, IL

October 1-4
NACS Show
McCormick Place
Chicago, IL

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Meet the NEW boss…
Business owners consider devastating property loss or catastrophic lawsuits to be a greater threat to business survival than economic or market changes. Additionally, many unforeseen events are never planned for, events that are readily insurable or could be lender-financed. However, there is one certainty that can be planned for: the departure of an owner will happen at some point and can be the greatest threat to the survival of any business that is not prepared for it.
Your Federated representative can help you prepare for your timely–or untimely–exit from your business. Call today to schedule an "exit strategy" planning session.
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