



January 12, 2019

www.vpcma.com

The first week of the 2019 General Assembly session has concluded with action on several issues impacting the Petroleum and Convenience industries. As the deadline to submit legislation is next Friday, February 18, we won't know the entirety of issues we will be addressing until that time. Following is the status of some issues we have been working on.

Interstate 81 Rehabilitation

Readers will recall that during fall 2018 VDOT held a series of forums to identify ways to improve safety and reduce accidents along the 325 miles of interstate 81 that stretches from Bristol to Winchester. The recommended package was approximately \$2 billion in financing to address the most problematic sections of the highway. They proposed two separate financing packages: one comprised of an increased local gas tax, combined with an increase in sales taxes in the region; the other-tolling the entire length of the highway. To the surprise of many, last Tuesday Governor Northam and a bi-partisan collection of members from Western Virginia announced their support of the tolling option. This issue is far from decided and there is a real possibility that increased fuel taxes in the region (which we oppose) will be back on the table before adjournment.

Weights and Measures

At the request of the Department of Weights and Measures Senator Roslyn Dance has introduced [Senate bill 1600](#). This will would end the state's requirement for dispenser labeling of ethanol blends of motor fuels. Instead labeling requirements mandated by the National Institute of Standards would apply. This bill has been amended at our request to eliminate any language referencing methods of sale, which could have opened up a pandora's box of issues impacting VPCMA members.

For a copy of the NIST standards, [click here](#).

Gaming

The decision during the Obama administration to declare Virginia's Pamunkey tribe a sovereign nation gives them the right to open a casino in Virginia. Last year, the tribe purchased a 300 acre parcel adjacent to Interstate 64 just east of Richmond which was rumored to be their choice for a casino. They have now apparently changed their position and favor a waterfront setting in Norfolk adjacent to Harbor Park. Funding their efforts is a Tennessee billionaire who made his fortune in the Indian gaming industry. There are various other proposals to bring casinos into Virginia, with an effort by Bristol investors seemingly the most organized. This week Governor Northam endorsed a study of the issue to report back to General Assembly in 2020. Whether this will delay consideration of casino gambling is up in the air at this point. With regard to the issue of "games of skill" that are appearing at an increasing number of ABC on and off premises locations, Senator Louise Lucas has proposed SB 1187 which declares games of skill to be gambling devices and hence illegal. A copy of that bill may be [found here](#) and we would appreciate your comments on it.

Sports Betting

A decision by the Supreme Court last spring allows all states to legalize sports betting, and there are several proposals pending that would do just that in Virginia. They differ in how it would be conducted, whether in brick and mortar locations or online. Reportedly the various casino interests want to see no action on the issue this year so that they can get exclusive rights to offer it at their location(s). Of interest to the membership is that several of the bills give administration and oversight of sports gaming to the Virginia Lottery. One bill [HB1638](#) would also repeal Virginia's longstanding ban on selling lottery tickets on the internet, possibly creating unfair competition to the convenience store industry.

Fuel Taxes

Another Supreme Court decision last year allows the states to recover sales taxes on purchases made remotely. Previously Virginia could only charge taxes on internet purchases if the seller had a physical presence in the state. There are several bills pending to implement online taxation. When we changed from cents per gallon to a percentage of wholesale price for gasoline and diesel in 2013, a section of that legislation stipulated that if the internet sales tax passed Congress, Virginia's fuel tax would decrease from the present 16.2 cents to 11.1 cents. There are several bills to remove that provision from the code. VPCMA supports those efforts.

Shutdown's Impact on Marketers

From PMAA

This week, the House passed three appropriations bills that would fund the Department of Transportation (DOT), Department of Homeland Security (DHS), Department of Housing and Urban Development (HUD), Department of Agriculture (DOA), Food and Drug Administration (FDA), Department of Treasury (DOT) and the Internal Revenue Service (IRS) as part of an effort to end the ongoing government shutdown. Additionally, the House is set to vote on their fourth

and final appropriations bill today that would fund the Environmental Protection Agency (EPA) and Department of Interior (DOI). However, the votes are largely symbolic because Senate Majority Leader Mitch McConnell (R-KY) has said the Senate will not bring to the floor any bills that President Trump wouldn't sign, and President Trump has said he would veto all four bills.

Due to disagreements on the appropriations bills and their lack of funding for the border wall, day 22 of the partial government shutdown left EPA without funding. The E-Verify electronic verification employment system's website had been shut down, and USDA is working with states to issue February SNAP benefits earlier than usual. The EPA has also announced it will

begin "orderly shutdown procedures" of non-essential functions. There is no immediate resolution in sight and no other votes are expected today. House leadership have committed to giving 24 hours' notice before calling for a vote.

The Department of Homeland Security (DHS) E-Verify electronic verification employment system's website that verifies the information on a worker's Form I-9 with Social Security Administration records, was shut down. For employers who use E-Verify, until the website is operational, simply go back to the rules for hiring documents that the majority of employers' use, which includes employee Form I-9/Employment Eligibility Verification. According to DHS, the three-day rule for creating E-Verify cases has been suspended during the shutdown. There continues to be strong Administration support for the program. President Trump would like to mandate DHS's E-Verify program nationwide, and his fiscal 2019 budget plan requested \$23 million to expand the online program for all 50 states.

Meanwhile, on Tuesday, Agriculture Secretary Sonny Perdue announced that in order to ensure that participants in the Supplemental Nutrition Assistance Program (SNAP) receive their benefits in February if the shutdown persists, USDA will work with states to issue February benefits earlier than usual.

Based on language in the recently-expired Continuing Resolution (CR), programs like SNAP can incur obligations for program operations within 30 days of the CR's expiration. USDA will instruct states to request early issuance of SNAP benefits, and states will have until January

20th to request and implement the early issuance. SNAP retailers are urged to prepare for early transactions and to staff and stock stores appropriately.

If Democrats continue to refuse funding for a border wall, President Trump has said that he will likely use his presidential power to declare a national emergency. If this were to happen, the money for the wall would likely come from unused money in the Army Corps of Engineers budget, specifically from a disaster spending bill that Congress passed last year. If an emergency declaration is issued, House Democratic leadership have been discussing the possibility of suing the Trump Administration, although they may not have standing to sue. With no end in sight, it remains to be seen when the government will fully reopen.

FMCSA Lowers 2019 Unified Carrier Registration Fees Due to Past Year Overcollection

From PMAA

Unified Carrier Registration fees for trucking companies, brokers and freight forwarders are going down for 2019. The UCR applies to petroleum marketers operating cargo tank vehicles across state lines to deliver fuel. The fees are being reduced in order to not exceed the total amount collected nationwide as set by Congress. Under the UCR Plan and Agreement, the maximum amount of revenues that can be collected from carriers is established at \$107.78 million. Fees collected in 2017 exceeded this maximum by \$7.3 million. The fee reductions for 2019 and 2020 are to ensure registration fees don't exceed the maximum in the next two years. UCR fees will increase in 2020 from 2019, but still stay below levels from 2010-2018.

UCR requires individuals or companies that operate commercial motor vehicles (CMVs) in interstate or international commerce, or individuals or companies that make arrangements for the transportation of cargo and goods, to register their businesses and pay an annual fee based on the size of their fleet. The UCR applies to CMVs with a gross vehicle weight (GVW) or gross vehicle weight rating (GVWR) of 10,001 pounds or more or is used to transport hazardous materials in a quantity that requires placarding. Motor carriers, motor private carriers, freight forwarders, leasing companies, and brokers based in the United States, Canada, Mexico, or any other country that operate in interstate or international commerce in the United States must register under the UCR program. For for-hire carriers, UCR replaced the Single State Registration System (SSRS) program. SSRS was not renewed for 2007. The UCR program is similar to SSRS in that UCR is a Base-State system, under which a carrier pays UCR fees to one state on behalf of all participating states.