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California Board Approves Tough Auto Emission Standards

The California Air Resources Board ("ARB") recently approved what may well be the toughest vehicle emissions standards in the world. ARB decisions do not require legislative approval and need only be cleared by the Office of Administrative Law, a state oversight agency, in order to become law.

If the proposed standards are approved by the Office of Administrative Law, automakers will be required by 1994 to sell cars that are 50 percent cleaner than current models. The standards become progressively stricter until 2003, when all cars sold in the state, a projected two million per year, will be required to emit at least 70 percent less hydrocarbons and other smog-producing chemicals than 1993 models. Also, ten percent of cars sold in 2003 will be required to give off no emissions. Currently, electric cars are the only zero-emission vehicles. "We recognize these are very dramatic requirements we are imposing," said ARB Chairwoman, Jananne Sharpless. "It's going to take a lot of work, but we think it's feasible."

Automakers are skeptical about whether the standards will be workable. "We're on board," said Samuel A. Leonard, director of automotive emission control for General Motors. He added, however, "we're concerned because no one knows how to do it today." "We can't even find enough of the engineers we'll need to do what they're asking," said Ford emission control director, Michael J. Schwarz. Automakers will be able to petition the board in 1992 for rule changes if their engineers are having difficulty meeting the new standards.

The ARB standards are expected to have far-reaching consequences because California is the largest automotive market in the country and because, under the Federal Clean Air Act, other states are permitted to follow California's lead. The Federal Clean Air Act permits California, which has the worst polluted air in the nation, to adopt standards tougher than those imposed in the rest of the country. Other states, under the Act, can then impose standards consistent with those in California. New York already has adopted California's standards for 1993, and seven New England states are considering similar regulations.

Energy Emergency Bill Introduced

The "National Emergency Anti-Profiteering Act," a bill to outlaw price-gouging during economic emergencies, was recently introduced in both houses of Congress. The bill, a reaction to gasoline price increases since the Iraqi invasion of Kuwait, would prohibit excessive pricing on gasoline, heating oil, and other fuels after the president declares an energy emergency. The bill defines a price as excessive if it "is not justified by the seller's actual costs of acquiring, producing, selling, transporting, and delivering the actual product sold, plus a reasonable profit." The Energy and Justice Departments would monitor gas prices.

Anticipating a possible escalation of the crisis in the Middle East, Sen. Joe Lieberman (D-Conn.), chief sponsor of the Senate bill, said that "given the ability and the demonstrated willingness of the oil industry to jack up prices at the pump almost instantaneously . . . it's likely that the outbreak of conflict abroad . . . would lead immediately to an outbreak of price gouging here at home." Rep. Richard Durbin (D-Ill.), also a sponsor of the bill, said that just having the law in place would deter individuals and companies "from gouging consumers and taking advantage of the situation."

The bill has 45 original co-sponsors in Congress and no one in Congress publicly criticized the bill. The Chicago Tribune, however, labeled the bill "misguided" and "lame-brained" in an editorial published two days after the legislation was introduced. According to the Tribune, the bill "ignores the realities of oil economics and the marketplace" because oil companies and other retailers establish fuel prices according to what it will cost to replace their inventories. In addition, "higher energy prices can serve the useful purposes of encouraging conservation and more efficient use of fuels," the Tribune stated.

Congress Considers Warning Requirements for Alcohol Advertising

The House of Representatives recently considered a bill that would require health warnings in all alcohol advertisements. The proposed warnings, similar to those already on alcohol beverage containers, would be tagged onto television, radio, and newsprint ads, as well as outdoor billboards. The warnings could comprise eight to twelve seconds in a thirty second radio or television spot. "Like it or not, beer ads educate Americans, particularly younger Americans, that taking a drink is needed in order to win that race or make it down the ski slope," said Rep. Joseph Kennedy (D-Mass), a co-sponsor of the bill.

Officials of both the advertising and alcohol industries have complained that the bill would censor speech. James Sanders, president of the Beer Institute, called the proposed legislation "onerous, restrictive, and burdensome." "If it ever came to pass," said Sanders, "it just makes sense that alcohol advertisers would not advertise." Sanders said the bill also poses a grave threat to the future of advertising support for sporting events. Beer advertising alone accounts for fifteen percent of all advertising in televised sporting events.

According to the American Association of Advertising Agencies, brewers and distillers spent $1.3 billion on national advertising campaigns in 1988, the latest year for which data is available. The Federal Trade Commission ("FTC") estimates the figure will be close to $2 billion for 1990.

The proposed warnings would contain messages that drinking during pregnancy may cause birth defects, that drinking and driving is dangerous, that drinking may become addictive, and that it is illegal for people under 21 to buy alcohol.

ATM Networks to Share Access

Nationwide access to cash became easier recently when two major automated teller machine ("ATM") networks agreed to a sharing plan. Cirrus Systems Inc. of Downers Grove, Illinois, and Plus Systems Inc. of Denver, Colorado, reached an agreement under which each company's cardholders will have access to the other company's ATMs, a combined total of nearly 60,000 ATMs, by the end of the year. Together, the two companies operate roughly 75 percent of the ATMs in this country. "Plus and Cirrus have virtually eliminated the concern people have about running out of cash while away from home," said Denny Demler, Executive Vice President of Plus.

The agreement was made possible when attorneys general from 14 states, after examining the ATM-sharing plan, wrote Cirrus and Plus executives in early August stating that they had "no current intention of instituting [antitrust] litigation." The attorneys general, however, neither approved nor authorized the sharing plan. "We are concerned. . . that, in the long run, ATM sharing may actually reduce ATM deployment, stifle technological innovation, and lead to undue concentration in the ATM and other payment systems," the attorneys general wrote.

Banks that own individual ATMs have the final say concerning access, but most Cirrus and Plus member banks are expected to agree to the sharing plan. Several larger banks, including First Interstate Bancorp, Bank of America, Manufacturers Hanover Corp. and Wells Fargo Bank, already have agreed to open their ATMs to cardholders from both networks.

Cigarette Vending Machine Bans

A number of major U.S. cities are considering comprehensive bans that would sharply curtail under-age access to cigarette vending machines. The Pittsburgh City Council, in July, approved banning all such machines from locations other than bars, private clubs, factories or "other private facilities not open to the general public." The New York City Council, in November, approved banning as many as 27,000 cigarette machines from all locations other than those at which the sale of alcoholic beverages is the principal business. In Chicago, a ban that would affect as many as 15,000 machines has been pending since June. Over fifty smaller municipalities, in Alaska, Idaho, Indiana, Maine, Maryland, Minnesota, New Hampshire, and Wisconsin, have also enacted vending machine restrictions or bans. Utah has adopted a statewide ban.

Health and Human Services Secretary, Louis Sullivan, told the Senate Finance Committee in May that he endorsed cigarette vending machine bans. "Kids can easily buy cigarettes virtually anytime they want to in violation of the law," he said. "It is all too apparent that we as parents, as educators, as health officials and legislators still do not take the problem of smoking among our children . . . as seriously as we should."

According to the Journal of the American Medical Association, as many as three million Americans under the age of eighteen consume roughly 950 million packs of cigarettes a year. Forty-four states ban such sales, although according to a Health and Human Services survey, only 32 violations in five states have ever been reported. Kentucky, Louisiana, Missouri, Montana, New Mexico and Wyoming all permit the sale of tobacco to minors.

Tobacco industry spokesmen argue that vending machine bans impose undue burdens on vendors, interfere with the economy, and will not be likely to have any serious impact on under-age smoking habits. Tom Lauria, spokesman for the Tobacco Institute, a lobbying arm for tobacco producers, said that he believes the bans are overly restrictive. "The sad aspect of these proposals is that they don't address how and why kids smoke cigarettes," he said. "The fact is that less than five percent of cigarettes are sold through vending machines," said Brennan Dawson of the Tobacco Institute.

One vending machine ordinance, recently passed in Suffolk County, New York, did garner industry support. Under the Suffolk County bill, vendors are required to equip machines with locks or devices which can only accept tokens. These give cashiers a way to supervise access to the machines and confirm that machine users are of age. "This puts us at exactly the same level as someone selling cigarettes over the counter," said Richard Simon, who owns 300 cigarette machines in Suffolk. "This we can live with. But to do anymore unfairly singles us out as an industry and hits us over the head unfairly." A full ban on cigarette vending machines is still pending in Suffolk.

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