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Recent Legislative Activity

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Handgun Purchaser Waiting Period

The U.S. House of Representatives has passed the **Brady Handgun Violence Prevention Act**, which is now being considered by the Senate. The so-called "Brady Bill" provides for a seven day waiting period before an unlicensed individual may purchase a handgun from a licensed dealer, manufacturer or importer.

The bill also requires that the purchaser provide a written statement to the seller, and that the seller keep a copy of the statement. The purchaser's statement must provide: (1) proper identification, (2) any prior felony convictions, (3) current addiction or abuse of controlled substances, (4) past adjudication as a mental defective or commitment to a mental institution, (5) alien status, and (6) Armed Forces discharge status.

After verifying the purchaser's identification, the seller must provide a copy of the statement to the chief law enforcement officer of the purchaser's place of residence. The officer then has seven days to notify the seller that the handgun possession would violate federal, state, or local laws.

The bill also provides for alternatives to the seven day waiting period in special circumstances. The purchaser may provide the seller with a statement by a chief law enforcement officer that the individual requires immediate access to a handgun because of a threat to the individual's life or to the life of a household member. Also, the purchaser may present a valid permit to possess a handgun that has been issued by the state within the last five years and verified by an authorized government official. The bill provides for punishment of knowing violators by fines not exceeding \$1,000 and imprisonment up to one year. H.R. 7, 102d Cong., 1st Sess. (1991).

Silicone Implant Safety

The House of Representatives is considering a bill entitled the **Silicone Safety and Information Act**, an amendment to the Federal Food, Drug and Cosmetic Act. 21 U.S.C. §§ 301-392. The amendment would prohibit physicians from performing silicone gel breast implants unless they provide patients with information regarding the risks, advantages and disadvantages of silicone implants at least five days before surgery. The information, prepared by the Secretary of Health and Human Services, details the side effects, warnings and

risks associated with silicone gel implants. The information must be in "layman's language," and the patient must acknowledge receipt of the information in writing. The bill provides for a \$5,000 civil penalty for any physician performing a silicone gel implant without complying with these requirements. H.R. 1422, 102d Cong., 1st Sess. (1991).

Tobacco Warnings

The Senate is considering amending the **Federal Cigarette Labeling and Advertising Act**. 15 U.S.C. §§ 1333(a), 4402. The bill would add to the current list of four warnings which cigarette manufacturers and importers must use in the labeling and advertising of cigarettes. Under consideration is the following: "SURGEON GENERAL'S WARNING: SMOKING IS ADDICTIVE. ONCE YOU START, YOU MAY NOT BE ABLE TO STOP." Additionally, the bill would require the use of a similar warning by smokeless tobacco manufacturers and importers: "WARNING: USE OF THIS PRODUCT IS ADDICTIVE. ONCE YOU START, YOU MAY NOT BE ABLE TO STOP."

The **Cigarette Labeling and Advertising Act** makes it unlawful to distribute or sell cigarettes in packages which do not display one of the Surgeon General's warnings. The Act also requires that cigarette advertisements must bear one of the Surgeon General's warnings, and that all warnings be rotated quarterly. Smokeless tobacco products and advertising must also bear similar prescribed warnings. S. 556, 102d Cong., 1st Sess. (1991).

ANNOUNCEMENT

The American Association of Retired Persons (AARP) Consumer Affairs Section has announced the availability of two publications which are of interest to elderly consumers.

AARP has published a booklet entitled "Life Insurance For Older Adults" (D14139), which details insurance programs for older consumers. In addition, the Consumer Affairs Section also introduced "Medigap: Medicare Supplement Insurance Consumers Guide" (D14042).

This guide outlines how consumers can obtain insurance to supplement Medicare coverage.

Single copies of these publications are available free by writing AARP Fulfillment, 1909 K Street N.W., Washington D.C. 20049, (202) 728-4355. Please include stock number listed above.

Correction: In our last issue, this announcement mistakenly referred to AARP as the National Association of Retired Persons ("NAARP"). Please take note of this correction.

State Tax Credits

The Arkansas legislature has extended the time period for common stock purchasers to claim state income tax credits. The law

applies only to the original common stock purchasers of capital development corporations, those corporations that directly affect the agricultural, technological, scientific and economic development of the state. Common stock purchasers during the calendar years 1985 through 1994 are entitled to a tax credit not exceeding thirty-three percent of the purchase price of the stock. Also, the tax credit in any one year cannot exceed fifty percent of the purchaser's state income tax liability. 1991 Ark. Acts 333.

Dishonored Check Charge

New York has doubled the statutory amount that a vendor may charge a consumer for a dishonored check. The legislation allows the holder of a dishonored check to either collect from, charge, or add to the outstanding balance of a consumer's account. The dishonored check charge cannot exceed either twenty dollars or a lesser amount if agreed upon. 1991 N.Y. Laws 15.

Airbag Requirements

A new Senate bill, the **Highway Fatality and Injury Reduction Act of 1991** would require that new cars, buses, trucks and vans be equipped with driver and front passenger airbags by 1997. Current federal regulations require that manufacturers provide either a driver-side airbag or automatic seatbelts for new passenger vehicles. Passenger cars manufactured after 1995 would be required to have airbags on both the driver and right front passenger positions. This requirement would be delayed for newly manufactured trucks, buses, and vans until 1997. S. 591, 102d Cong., 1st Sess. (1991).

Lienholder Title Applications

The Arkansas legislature has amended its motor vehicle code to allow dealers and lenders to make

title and registration applications on behalf of new and used automobile purchasers. The law directs the revenue commissioner to promulgate rules for governing dealers and lienholders, and allows for the posting of bond to ensure compliance. The dealer or lienholder

must attach a copy of the sales contract, lease or loan to the application. The commissioner will then file the lien and mail the registration to the owner of the vehicle and the title to the lienholder. 1991 Ark. Acts 293.

CONSUMER UPDATE

In Congress, the House Subcommittee on Oversight and Investigation has begun to review the quality and safety of bottled water. Prompted in part by the Perrier recall, the subcommittee has directed the General Accounting Office to analyze the standards and regulations of the industry including state efforts to supplement federal standards, compliance monitoring and fair advertising.

The Food and Drug Administration will soon implement a national program to test raw milk for veterinary drug residues. The nationwide plan which has been named the National Drug Residue Monitoring Program is meant to provide supplementary protection for consumers to the current customary routine tests of raw and processed milk. The customary tests carried out by state agencies focus on penicillin and penicillin-related drug products. The FDA monitors the state tests; however, this is the first time the FDA will be directly involved in the testing.

These governmental efforts are part of a larger trend of consumers becoming more conscious of the relationship of diet to health. For an interesting analysis of two of the legal developments related to this trend please refer to Eric Greenberg's "The Changing Food Label: The Nutrition Labeling and Education Act of 1990" and Timothy Hughes's "The Federal Trade Commission's Approach To Regulating Health Claims In Food Advertising," both articles appear in Volume 3, No. 1/Fall 1990 of the *Loyola Consumer Law Reporter*.

Consumer Protection Penalties

Virginia has enacted legislation that allows court costs and attorneys' fees to be assessed for willful violations of the state's consumer protection act ("Act"). The new law allows government attorneys to petition for the recovery which would be paid into the general fund of the state or county represented. A willful violation of the Act is demonstrated by continued violations after a government attorney notifies the alleged violator by certified mail. Willful violations of the Act are also subject to civil penalties of up to \$1,000 per violation. 1991 Va. Acts 156.

900-Number Solicitations

Virginia now subjects 900-number solicitations to the state's **Prizes and Gifts Act**. Such solicitations attempt to have people call pay-per-call telephone numbers for information about prizes or gifts in connection with the sale or lease of goods or services. The pay-per-call solicitations must conform to the consumer disclosure requirements of the **Prizes and Gifts Act**. These requirements include disclosure of: (1) the actual retail value of the item, (2) the number of each item to be awarded, and (3) the odds of receiving each item. The new law also requires that every solicitation disclose on whose behalf the contest is being conducted, as well as all the conditions the consumer must satisfy in order to win and the total cost of the call. 1991 Va. Acts 154.

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