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NACS

January 23, 2009 -

ALEXANDRIA, VA -- Below are updates on issues of relevance to convenience and petroleum retailers. Please contact the appropriate NACS staff if you have any comments, questions or would like additional information.

Senate Committee Passes Cigarette Tax Increase, Floor Tax

This week, the Senate Finance Committee followed suit with last week's passage by the House to expand the State Children's Health Insurance Program (SCHIP), paid for in part by a 61-cent-per-pack increase in the federal excise tax on cigarettes. Both bills include a floor tax for tobacco inventory held close of business March 31. If enacted, the floor tax will be issued by the Department of Treasury and due payable August 1, 2009.

NACS has been lobbying Congress against the increase in the excise tax, noting that such increases lead to more illegal sales of cigarettes on the black and grey markets as well as more in store tobacco robberies.

NACS Staff Contact: Chris Tampio, ctampio@nacsoline.com or (703) 518-4283

Obama Sets His Cabinet

The Senate unanimously confirmed seven presidential appointees: Steven Chu, Departments of Energy; Arne Duncan, Education; Janet Napolitano, Homeland Security; Ken Salazer, Interior; Eric Shinkeki, Veterans Affairs; Tom Vilsack, Agriculture. The Senate also confirmed Peter Orszag to be director of the Office of Management and Budget. On Wednesday, the Senate confirmed Hillary Clinton as Secretary of State, but only after Sen. John Cornyn (R-TX) placed a hold on her nomination and forced a vote, which passed 94-2.

President Obama's nominees for Attorney General (Eric Holder) and Secretary of the Treasury (Timothy Geithner) are being vetted further by the Senate and their confirmations are expected to occur next week.

For now, Commerce, Labor, Health and Human Services, Housing and Urban Development, and Transportation are without confirmed leaders.



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Obama Supports Credit Card Reform

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The Chicago Examiner

January 23, 2009 -

CHICAGO – Targeting “unilateral rate hikes” and “rate changes on existing debt,” President Barack Obama will support a credit card reform bill should such legislation pass through Congress, *The Chicago Examiner* reports.

Last week, Rep. Carolyn Maloney (D-NY) introduced The Credit Cardholders' Bill of Rights (CCBR) in the House, while Senators Mark Udall (D-CO) and Charles Schumer (D-NY) introduced it in the Senate. The proposed law includes the following:

- Ban retroactive rate increases on balances for customers “in good standing” without overdue balances.
- Mandate a 45-day notification window for all rate increases.
- Ban double-cycle billing.
- Allow consumers to place charging caps on their cards.

While retroactive rate increases and double-cycle billing have been recently addressed by the Federal Reserve, its rules will not take effect until July 2010. The CCBR would take effect 90 days after signed into law.

The House passed a bill similar to CCBR last year, but it failed in the Senate. The current bill is a milder version of the Credit Card Accountability, Responsibility and Disclosure Act, sponsored by Senator Chris Dodd (D-CT). The latter bans all retroactive rate increases irrespective of whether a cardholder's balance is overdue, and it limits bank fees charged to credit card holders.

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St. Joe News

January 23, 2009 -

JEFFERSON CITY, MO – The ethanol industry’s financial distress has hit Missouri, and state plant executives have asked state senators for additional funding, *St. Joe News* reports.

St. Joseph-based Lifeline Foods, already the recipient of \$3.125 million in annual funding in a state that mandates 10 percent ethanol standards at all state gasoline stations, has launched a fundraising campaign to help boost its cash position, said Lifeline Foods’ VP of energy operations, Chris Caplinger.

Lifeline’s ethanol facility, opened in 2007, receives existing benefits from the Missouri Qualified Fuel Ethanol Producer Incentive Fund.

“This [funding] has really helped us make it through our first year of production,” Mr. Caplinger said. Each year and for five years, his company receives 20 cents per gallon for the first 12.5 million gallons of ethanol it produces, and 5 cents per gallon for the next 12.5 million gallons. Lifeline’s total plant capacity is 50 million gallons per year.

While the state has not yet released its 2009-2010 budget, Caplinger’s fear, along with others’ in the ethanol industry, is that the existing funding will not be fully renewed.

“It’s a possibility, considering the budget challenges they have,” Caplinger said.

The Missouri Corn Growers Association has also asked the state to continue to fund the state’s ethanol incentive and to retain its ethanol standard, both of which it says helped launch the state’s alternative fuel market.

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Rhode Island News

January 23, 2009 -

PROVIDENCE, RI – Philanthropic-Rhode Island-peanut butter cookie-lovers everywhere can take comfort knowing that peanut butter-flavored Girl Scout cookies sold by local troops are not under FDA investigation for salmonella poisoning, the *Rhode Island News* reports.

Girl Scouts of Rhode Island assistant executive director Nicole Kelly said that Hampton Farms Peanut Company, the peanut supplier for the Girl Scout cookies sold in Rhode Island, is not under FDA investigation.

Hampton Farms released test records from a January 12 FDA inspection that states “all records, procedures, and product samples were found to be in order.”

In related news, Whitney’s Candy Company issued a statement notifying customers that the company utilizes sources “that are free from contamination and contain no products from (PCA) or King Nut” and that its products “have diligent quality control testing done prior to release.”

The peanut-related salmonella outbreak has resulted in nearly 500 illnesses in 43 states.

For more information on product recalls, visit the [FDA Web site](#).

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Los Angeles Times

January 23, 2009 -

LOS ANGELES – A California proposal to increase the wine tax six-fold in an effort to help decrease the state’s budget deficit would “kill” the \$1.99 price of Trader Joe’s popular Charles Shaw wine — better known as Two Buck Chuck — the *Los Angeles Times* reports.

The consumer favorite Two Buck Chuck was introduced by the Trader Joe’s grocery chain in 2002. The tax proposal would increase the wine excise tax from 4 cents to 29.6 cents for a 750-milliliter bottle.

"It's like shooting Charles Shaw in the eye," said Fred Franzia, CEO of Bronco Wine Co., which owns the Charles Shaw brand. "The profit margin is already so low we will have to raise the price."

California’s wine industry is fighting the tax proposal, part of Governor Schwarzenegger’s plan to chip away at California’s deficit, projected to tip \$41 billion in 2010. They argue that tax hikes should be across-the-board and not specific to industry.

"If there are going to be tax increases, revenue sources need to be spread as much as possible to minimize the economic harm," said Allan Zaremberg, president of the California Chamber of Commerce.

Schwarzenegger hopes to raise alcohol excise taxes by a nickel beginning next month, allocating the revenue to substance abuse programs.

Additional taxes proposed by the California governor:

- Increasing the state sales tax 1.5 cents per dollar.
- Assessing a 9.9 percent tax on oil extracted in the state.
- Assessing sales tax to veterinary and car repair bills.

As for the future price of Two Buck Chuck should the wine tax become law, Franzia speculated between \$2.29 and \$2.49 per bottle, with final details to be negotiated with Trader Joe’s.



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Alcohol Taxes Tempt Lawmakers



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The Wall Street Journal

January 23, 2009 -

WASHINGTON – Despite fierce opposition from distributors, retailers, and industry groups, state lawmakers are developing proposals that would increase taxes on alcoholic beverages in an effort to reduce rising state debt, *The Wall Street Journal* reports.

In the past week, both Kentucky and Arkansas politicians announced alcohol tax increase proposals, joining similar ones already proposed in New York and California. It is projected that as many as 30 states will launch alcohol tax increase proposals within the year.

"This will be an extremely tough year" to stop state tax increases, said Peter Cressy, CEO of the Distilled Spirits Council of the United States.

Sin taxes historically find greatest acceptance during stressed economic times, though tobacco increases are far more common than ones for alcohol. In 2007, the states passed tobacco tax increases that totaled \$1 billion, while the alcohol tax increases that year was only \$3 million.

Kentucky's proposal is designed to raise up to \$68 million in revenue, which would help chip away at its \$450 million budget deficit. If enacted, the tax would increase the price of a six-pack of beer by about one quarter.

"We need the money, and I think among the electorate it will be a good bill," said state Rep. Rick Nelson, sponsor of the proposal. "The only thing that worries me is that the liquor industry has a lot of money" to fight it.

The Kentucky Beer Wholesalers Association and the Kentucky Distillers' Association have already begun their counter-attack.

"When the national economy is a disaster, it doesn't appear to me that the way to remedy the problem is to increase the tax on the average guy," said Gene McLean, executive director of Kentucky's beer wholesalers group.



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British Beer "Speedball" Faces Ban

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BBC

January 23, 2009 -

LONDON – The British beer Speedball — the same term that describes the lethal drug mixture of heroin and cocaine that killed actors John Belushi and River Phoenix — is coming under formal protest from critics who claim it promotes drug use, the BBC reports.

The complaint, lodged with the beverage industry watchdog group Portman Group against brewer BrewDog, was accepted on its merit. As a result, the Portman Group said that it will issue a bulletin to retailers requesting them to remove the beer from inventory.

"The blurring of alcohol and illicit drugs fosters unhealthy attitudes to drinking and trivialises drug misuse," said Portman Group CEO David Poley, who called the beer's marketing approach grossly irresponsible. "BrewDog is profiteering from the scourge of illegal drugs, mocking the misery caused by misuse. The company is seriously misguided in its claim to be educating and preventing people from misusing drugs. We are taking urgent action to protect the public from exposure to such negligent marketing."

In response to the ruling, a BrewDog spokesperson said that Speedball was "for those who enjoy a quality beer responsibly." Brewdog co-founder, Martin Dickie, dismissed the ruling as having little effect on the beer's future.

"Their note is a recommendation to retailers, nothing more, and secondly, this is an extremely exclusive drink for beer connoisseurs, it's not as if it is available in every shop which sells alcohol," said Dickie.

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