

2008**ARIZONA LEGISLATIVE WRAP-UP**

The Arizona Legislature adjourned for the year on June 25, 2008 at 10:09 a.m. following a session lasting 166 days. During the session, 1,380 bills were introduced, 347 were passed by the Legislature. Governor Janet Napolitano vetoed 32 bills and signed 315 bills into law. The Legislature will convene for the 2009 session on January 12, 2009 at noon. The general effective date for legislative acts without the emergency clause or specified later dates is September 26, 2008.

Below are summaries of the key bills, and selected regulatory issues, APMA worked on during 2008. If you have any questions regarding this wrap-up or would like a copy of a particular bill or chaptered law, please call Andrea Martincic at (480) 460-1561.

ENVIRONMENTStage II Vapor Recovery at Tucson Stations and EVR

HB2065 (Farley) would have require Stage II for all retail gasoline stations within Area B—metro Tucson. HB 2768 (Farley) would have required that all new Stage I and Stage II vapor recovery systems at gasoline stations have a CARB approved tank management system and CARB approved in-station diagnostic system. **These bills were assigned to House Environment and never heard in committee.**

APMA POSITION: Oppose.

OUTLOOK: Rep. Farley from Tucson will most likely continue to push for Stage II in Tucson.

Underground Storage Tanks; Energy Act

HB2425 (Barnes) brings AZ statute in line with the 2005 Energy Act as it related to UST regulations. This includes 1) double wall requirements beginning January 1, 2009 for new UST's, new piping components installed on an existing UST, or new motor fuel dispensers connected to a UST, 2) a stop-use tag program for non compliant UST's, owner and operators may request a hearing on stop use orders issued and may appeal DEQ decisions to Superior Court. Beginning January 1, 2009 delivering product to a UST with a stop use tag is prohibited and subject to a civil penalty of \$10,000 per UST per violation, and 3) the requirement that beginning August 9, 2012 owners or operators of UST's must designate individuals to undergo specified UST training.

Chapter 218, Laws 2008 (Signed May 20th)

APMA POSITION: Supportive with amendment #5084. APMA worked with the bill sponsor and the Senate Committee for an amendment requiring that ADEQ maintain a web-based list of facilities with stop use tags in order to alert transporters. The amendment also requires that ADEQ must notify an owner/operator as soon as practicable but within 5 business days in writing when an owner/operator has shown the ADEQ that a tank is able to be back in operation after having received a stop use tag.

OUTLOOK: ADEQ will have to write rules related to the owner/operator training requirements and APMA will be engaged to ensure that requirements can be met by both small and large owner/operators.

Air Quality Issues (Pinal Emissions Testing & Winter Oxy Season)

HB 2427 (Barnes) would have officially created air quality area C thus requiring that a vehicle emission program be instituted. This bill was supported by WSPA and in response to ADEQ's legislation last year which carved out an area referred to as Area C and instituted a new fuel formulation for the area without applying any other air quality control measures. HB2537 (Barnes) would have shortened the winter oxygenate season by two months, allowed the winter blend to contain less than 10% and the blend would not have been subject to certain emission requirements. This bill would have been conditionally enacted on EPA approving a revision to the Arizona State Implementation Plan (SIP). **HB2427 failed to pass the House 22-37 and HB 2537 was held in committee when EPA suggested to ADEQ that they would not approve a shortening of the winter oxy season for Arizona's SIP.**

APMA POSITION: APMA was monitoring HB2427. APMA supported HB2537 since APMA had worked with stakeholders over the past couple of years on the issue of shortening the winter oxygenate season. APMA believes that marketers should be able to blend ethanol when and if it is economical. APMA is generally opposed to product mandates.

OUTLOOK: It does not appear that ADEQ supports a shortening of the ethanol season and EPA has communicated that they do not support revising the Arizona SIP to shorten the ethanol blending season in Area A.

DEQ Continuation

HB2510 (Konopnicki) would have extended the statutory life of ADEQ by ten years through June 30, 2019. It also included a section outlining ADEQ's goals and responsibilities. **This bill was never heard in committee.**

APMA POSITION: APMA was monitoring this bill.

OUTLOOK: APMA received a letter from Representative Gray's Office that ADEQ's sunset review will be conducted by the Committee of Reference (COR) made up of the Senate Natural Resources and Rural Affairs Committee and the House of Representative Environment Committee. A public hearing will be held to review the performance of the agency and to receive testimony from agency officials, interested parties and the public. The COR will make a recommendation to continue, revise, consolidate or terminate the agency.

Omnibus Energy Act of 2008

HB2766 (Mason) was over fifty pages of changes to statutes related to energy use. This was primarily targeting the construction industry and power companies in Arizona but contained several provisions related to the petroleum industry including; a state study on the technical feasibility and cost effectiveness of reducing the life cycle greenhouse gas emissions from motor fuels shipped to and sold or offered for sale in AZ (modeled after CA), authority for the ADEQ to set a low carbon fuel standard for AZ without legislative oversight if one was not set by the federal govt. or state legislature by Dec. 31, 2011, provisions to adopt the federal PMPA changes related to biofuel marketing in state statute and a state biodiesel mandate modeled after WA. **HB2766 failed to go to a floor vote in the Senate.**

APMA POSITION: APMA monitored this bill closely and worked with other petroleum stakeholders to address the above concerns. Everything was addressed and the final version of the bill contained only a limited study on reducing life cycle greenhouse gas emissions which would have required public stakeholder input and legislative oversight and a direct reference to the federal PMPA language.

OUTLOOK: This is likely to return in some format next year since this bill was a major objective which the Governor was unsuccessful in getting accomplished this session.

Clean Burning Gasoline in Area C

SB1095 was a technical correction to last year's legislation requiring the use of CBG in Area C. It requires that the period in which oxygenated fuels must be sold in Area C to begin May 1 through September 30.

Chapter 77, Laws 2008 (Signed April 28th)

APMA POSITION: Support.

MARKETING ISSUES

Biodiesel Conversion Program

HB2620 (Boone) called for the establishment of the Arizona Biofuels Conversion Program in the Department of Commerce to encourage the use of biofuels. It established a Program Fund consisting of monies appropriated by the Legislature or monies received through gifts, grants donations or other state, federal or private sources. By January 1, 2009 the Director of the Department of Commerce's Energy Office is required to develop a procedure for awarding grants from the Fund for the conversion of existing fuel stations to include biofuels. Grants may be up to \$30,000 or 40% of the conversion cost per site. The Department of Commerce may use up to 5% of the Fund to administer the Program. The Program ends on July 1, 2013. The bill also included definitions for biofuels and biomass. **HB2620 became a striker vehicle for the Governor's budget. However, it did become law and its language was rolled into HB2621 another Boone bill.**

APMA POSITION: Monitor

OUTLOOK: See below. This bill was rolled into HB2621 during Conference Committee.

Biofuels Standards

HB2621 (Boone) establishes a biofuels conversion program in the Department of Commerce to encourage the use of biofuels by distributing grants to fuel dispensing sites. The bill modifies definitions relating to the Department of Weights and Measures statutes by changing the definitions of "biodiesel" and "diesel fuel" and adding definitions of "biodiesel blend", "biofuel", "biofuel blend" and "misfuel." The bill requires fuel dispensers of biodiesel blends that contain up to 5% biodiesel to be so labeled. Any fuel dispenser containing over 5% of biodiesel must display the percent amount of biodiesel after the capital letter B (for example B10). Product transfer documents must state the exact percentage of biodiesel in the finished product. The Department of Weights & Measures is authorized to adopt rules regarding biofuel and biofuel blend testing, labeling and reporting. **Chapter 254, Laws 2008 (Signed June 6th)**

APMA POSITION: Support.

OUTLOOK: There will likely continue to be a push to remove the labeling requirements for B5 blends and under. APMA and other stakeholders will need to be engaged in the Weights and Measures rulemaking process where biofuel testing and reporting requirements will be developed.

Agency Fees and Penalties

HB2462 makes statutory and session law changes related to budgeting procedures for the FY08-09 budget, including replacing the requirement that counties must use their portion of Vehicle License Tax revenue for highway projects with language stipulating the funds be used for a transportation purpose as determined by the board of supervisors. The bill increases the annual appropriation to the Department of Commerce to administer the motion picture tax credit. Increases the pro rata share that state departments (except those specifically exempted) must pay into a fund to support the Government Information Technology Agency from 0.15% of payroll to 0.20% of payroll. The bill defers 10% of the \$25 million that was appropriated to the 21st Century Fund to Fiscal Year 2011. **Six state agencies (including the Departments of Agriculture, Environmental Quality, Weights & Measures and Health Services) are authorized to raise fees to increase revenue by a total of \$11.1 million.** The bill suspends the requirement that the Secretary of State develop a register of professional employer organizations until Fiscal Year 2010. **Chapter 254, Laws 2008 (Signed June 27th)**

APMA POSITION: This was a budget bill and as such not part of the “normal” legislative process.

OUTLOOK: Expect fine increases from ADEQ in 2009. W&M increased their maximum civil penalties from \$500 to \$1000 for each infraction (no more than \$10,000 for any 30 day period at each business location). The bill exempted ADWM from rulemaking for the penalty increase. The W&M increases were primarily the result of Representative Miranda’s misguided belief that by increasing the penalties “meter creep” would be addressed.

TAXES

Historic Trucks; Use Fuel Taxes

HB2357 (McClain) allows for trucks that are at least 25 years old and have been issued a historic vehicle license plate and are not used for commercial purposes to pay the use fuel tax for light class motor vehicles instead of use fuel tax for commercial vehicles. The use fuel tax for commercial vehicles is 26 cents/gallon; for light class vehicles it is 18 cents/gallon.

Chapter 51, Laws 2008 (Signed April 18th)

APMA POSITION: Monitor

OUTLOOK: APMA is still interested in trying to get political support the elimination of Arizona bifurcated diesel tax and move to one diesel tax rate in Arizona.

OTHER

Administrative Rules Oversight Committee

HB 2235 (DeSimone) would have re-established the eleven member Administrative Rules Oversight Committee, consisting of five members of the House of Representatives, five members of the Senate and the Governor or a designee of the Governor. The Administrative Rules Oversight Committee was established by the Legislature in 1995 and repealed in 1998. A bill to re-establish the committee was vetoed by Gov. Hull in 1999. **HB 2235 was vetoed by Governor Napolitano on April 28th.**

APMA POSITION: Support. The regulated community was hoping for an additional level of review for the increasing trend of the Governor to legislate through the agency rulemaking process.

VETO MESSAGE: *“For many of the same reasons articulated by Governor Jane Hull in her April 26, 1999 veto, I have vetoed House Bill 2235, which would have resurrected the long dead and little missed Administrative Rules Oversight Committee.”*