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ATTORNEY'S CORNER

By Larry Culley

Administrative hearings in New York City and in other parts of New York State have been held remotely for the past few months, either by a phone conference call or by emails. However, this hasn't prevented inspectors from such agencies from continuing to make their rounds and issue summonses for perceived violations. By the end of next week I will have had four remote hearings before the N.Y.C. Department of Consumer Affairs in the past two weeks. Three of them are for the sale of tobacco to undercover minors and the fourth is for allegedly engaging in price gouging during a declared emergency (covid-19, of course) by over-charging for face masks. In the City they take very seriously the sale of tobacco to minors. One DCA inspector told me privately that the Department would rather that our members sell heroin to minors than tobacco. A bit of hyperbole to be sure, but it shows which way the wind is blowing. If you lose your tobacco license over this not only will you never get it back at that location, but you could lose your lottery license for a minimum of a year and maybe longer. Some members have told me that the loss of their lottery license would likely put them out of business. DON' TAKE THAT RISK! Get tobacco training for your counter staff. Have your staff sign an acknowledgment that they will be terminated if they sell tobacco or alcohol to minors. Have friends with teenage children stop by at your store occasionally to secretly test your counter staff to see if they will sell to a minor. The British used to hang an admiral now and then "to encourage the others". Fire any counter staff who sell to minors to encourage the others not to break this rule. These are valuable licenses at risk. Don't lose them!

Regarding alleged price gouging in N.Y.C., the key is that during a declared emergency, whether covid, a deadly storm or blizzard, a power outage during a heatwave, whatever, DO NOT increase your prices for critical supplies by 10% or more over the price before the declared emergency took effect. Generally, that should keep you safe from such charges. They are out there looking for violators, so be advised.

The contents of this column are not intended as legal advice. I give no legal advice without an appointment and interview with a client

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Coronavirus Relief Proposal Halted

Yesterday, Senate Democrats, along with one Republican, voted to block the GOP coronavirus relief measure, thus ending hopes for a second stimulus package, the Washington Post reports. The move will likely mean no new economic stimulus bill will be passed before the November elections, despite rumors that the House may attempt to move yet another version in the coming weeks.

The 52-47 vote included Sen. Rand Paul (R-KY) voting no; the measure needed 60 yes votes to clear procedural hurdles. The failure comes as Federal Reserve officials have requested more financial assistance to keep the economy

afloat. Many benefits under the Cares Act have fizzled out, and extra unemployment benefits expired at the end of July, with many states not participating in the expanded unemployment benefits made available by President Trump's executive order.

In May, House Democrats approved a $3.4 trillion bill that would continue some of the Cares Act measure and add other initiatives, but the White House and Republicans nixed that measure, citing unexpended funds from the CARES Act still being available and balking at funds for Democrat priorities they claim are not directly coronavirus related. Now, both sides have dug in, and things have reached a stalemate.

The defeated GOP measure included liability protections for businesses, a second round of the Paycheck Protection Program and had earmarked new funds for small businesses, schools and coronavirus testing, plus a $300 weekly unemployment benefit to replace the previous Cares Act $600 weekly benefit. The liability provisions in the bill were taken from Senator John Cornyn's SAFE to WORK Act, which NACS strongly supports because it would protect businesses from frivolous lawsuits provided they took reasonable efforts to mitigate the spread of the coronavirus. Notably, the GOP bill didn't include another stimulus check for individual Americans nor aid to state and local governments, which is a top priority for House Democrats.

Congress needs to move ahead this month to avert a government shutdown when funding expires on Sept. 30, the end of the fiscal year. Republican and Democrat leaders have reportedly already agreed to move funding legislation separate from any new coronavirus stimulus legislation. Lawmakers are discussing short-term spending bills that would keep existing government spending through the election or possibly into next year.

Nearly 100,000 Businesses Permanently Close Doors

Across the United States, more than 160,000 businesses have indicated on Yelp that they have closed since March 1, CNBC reports. Of those closures, 97,966 are permanent, Yelp's latest Economic Impact Report reveals.

"Overall, Yelp's data show that business closures have continued to rise with a 34% increase in permanent closures since our last report in mid-July," said Justin Norman, vice president of data science at Yelp. "Despite the hard hit small businesses have certainly taken, we've seen that home, local, professional and automotive services have been able to withstand the effects of the pandemic better than other industries."

The Yelp data show many consumers are staying home and that home and professional services, including contractors, landscapers and attorneys, have experienced a lower closure rate than clothing stores and home décor companies amid the COVID-19 pandemic. Auto and towing services also have a healthier outlook.

"Consumers still need these services," Norman said. "Through the rise of virtual consultations, and contactless or socially distanced services, these businesses have been particularly resilient during this time."

Bars, restaurants and nightlife venues have experienced the most closures because of the pandemic, but foodservice businesses that have adapted to takeout, such as delis, pizzerias and coffeeshops, have been able to withstand the downturn.

States with the highest number of permanent business closures include Arizona, California, Hawaii, Nevada and Washington.

"Due to the pandemic, these states were greatly impacted by travel restrictions and also face high rates of unemployment," said Norman. "While it's hard to say when we can expect business closures to stabilize, we've continued to see businesses successfully adapt to these uncertain times over the last six months thanks to their own hard work, innovation and local policy changes."

Federal Court Strikes Down Parts of 'Joint Employer' Rule

On Tuesday, a New York federal court struck down portions of the Labor Department's new joint employer rule that went into effect a few months ago.

U.S. District Judge Gregory Woods decided that the rule did not comport with the Fair Labor Standards Act (FLSA) and tossed out the new standard that had applied to "vertical" employment relationships (for example, when staffing company or subcontractor workers are contracted to work with another entity, or potentially, franchise or branded business relationships). The ruling did not change the standard that applies to "horizontal" relationships in which a worker is employed by two "sufficiently associated" businesses. These situations may include relationships between retailers and their suppliers or when retailers hire outside businesses for specific tasks like maintenance, garbage removal or other work.

In January 2020, the Department of Labor's (DOL's) new joint employer rule created a four-part test to determine whether a business is equally liable for obligations under the FLSA. It assesses whether the entity in question:

- Hires or fires the employee.
- Supervises and controls the employee's work schedule or conditions of employment to a substantial degree.
- Determines the employee's rate and method of payment.
- Maintains the employee's employment records.

A group of 17 states and the District of Columbia challenged the rule in a New York federal court, and the case concluded with a 62-page ruling by Judge Woods Tuesday. The decision provides an in-depth and complex analysis.

Here are some of the highlights from the decision:

The judge ruled that the rule conflicts with the FLSA because it "ignores the statute's broad definitions." He concluded that the FLSA created an expansive system for examining employees with relation to employers, and that the DOL inappropriately narrowed it when it limited the definition of "joint employer" to solely encompass the four-part test. Specifically, the judge held that the rule's

requirement that an entity actually exercise control over a worker to be deemed a joint employer conflicts with the FLSA, and that control is merely one factor courts and the DOL have and should continue to review.

"For the convenience-retailing industry specifically, the impact of yesterday's decision is most likely to be felt by those that are franchisors and/or have branding agreements with major oil companies," said Jon Taets, director of government relations, NACS. "The franchise model is the primary one of concern as that vertical operating status was the primary subject of the previous tighter Obama Administration rule. Those with branding agreements may be vulnerable depending on how that arrangement is interpreted."

Companies such as McDonald's, Amazon and FedEx, which depend on franchisees and outsourcing, have wanted to narrow the joint employer standard. Led by New York and Pennsylvania, the states that brought the suit said the administration's rule would make it difficult to hold companies liable for minimum wage and overtime law violations committed by franchisees and contractors. The judge's ruling is subject to appeal.

GM Unveils Plan to Manufacture EV Motors, Transmissions

General Motors on Wednesday revealed plans to develop a group of interchangeable electric motors and transmissions that it says will help transition the company to a fully electric lineup.

The car maker said the three motors and five drive units will be called the "Ultium Drive" and will provide "significant advantages over GM's previous EVs in performance, scale, speed to market and manufacturing efficiencies." The drive units will be powered by GM Ultium battery cells, which the company announced in March.

GM said the plan gives it flexibility to use the units across its fleet of vehicles by providing front-wheel drive, rear-wheel drive and all-wheel drive propulsion combinations. The car maker said it will save vehicle design and production costs by developing Ultium Drive alongside its next generation of EVs. The company did not reveal when it expected to have Ultium vehicles on the road.

The company said it used its previous experience designing EVs to create "lighter and more efficient designs that feature clever integration." An example of this is the integrating of power electronics into the drive units'assemblies, which will nearly halve the mass of the power electronics, saving cost and space while increasing capability by 25%.

GM has said vehicles using the Ultium system could offer driving ranges of up to 400 miles and have battery options from 50 to 200 kilowatt hours.

Wednesday's announcement is the latest indication of GM's commitment to offering a line of EVs. In August, the company said EVs will make up 40% of new models launched in China over the next five years. The company has said it plans to invest more than $20 billion in electric and automated vehicles by 2025.

In August, Deloitte forecast that EVs will make up 32% of global new car sales within the next decade. In a recent analysis of electric vehicle offerings, HIS Markit forecasts that the number of plug-in electric vehicle (PEV) and fuel-cell electric vehicle (FCEV) models in the United States, Europe and China
will see a sharp rise in the next five years.

n the United States, the number of PEV/FCEV models is expected to increase rom less than 100 in 2019 to about 300 in 2025. In Europe, the number is forecast to go from less than 200 to 500, while China is forecast to see the number rise from less than 300 to about 700, according to the IHS report.

IHS Markit is the parent company of OPIS.

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BP Expands Test of 'Fast' EV Chargers at Gas Stations

BP told branded wholesalers in an email that it has expanded a test of "ultra-fast" electric-vehicle chargers to five stations from just one ampm site in Lodi, California. The major has added three BP sites in New York and another ampm site in California.

The pilot is part of a plan to add EV chargers at more gas stations across the country. The initiative is expected to attract a new customer demographic and increase convenience store sales, BP said.

"This pilot stage will allow us to craft the best possible charging experience at our sites and shape the future of the EV consumer solution at BP," the company said in its announcement to wholesalers. "This is a big step on our journey to reinvent BP in the U.S."

The FreeWire Boost Charger has 160kWh battery capacity and 120kW output, is ready for current as well as next-generation electric vehicles and can reduce charge times to about 30 minutes from 2.5 or more hours, BP said. The charger "easily" connects to a gas station's existing electrical infrastructure and its installation cost is 40% lower than the typical cost of installing other fast chargers, the company said.

The Boost Charger can be installed in hours without requiring expensive new grid power supply, according to vendor FreeWire Technologies. The charging unit can be powered from a single-phase connection and "installed in places that previously could not support higher power demand," the supplier said.

In FreeWire's Aug. 13 announcement of the first Boost Charger installed at an ampm station, CEO Arcady Sosinov said the charging unit gives EVs 100 miles of range in 10 minutes. The first installation at the Lodi ampm is along two major highways in California's Central Valley, and California is the top market for EV sales, FreeWire noted.

The BP EV charging units are included on EV charging station locators such as EVConnect, PlugShare and Google.

Boost Chargers support CHAdeMO and CCS connectors, which are compatible with all battery electric vehicles (BEVs) and Tesla models using an adapter. Drivers pay for EV charges through the EV Connect network, RFID, or credit card, FreeWire said.

BP ventures, which BP established more than 10 years ago to invest in promising technologies, invested in FreeWire Technologies in 2018 to support the major's strategy to "accelerate a global revolution in mobility" and "redefine the experience of convenience retail."

FreeWire said it expects to expand installations of Boost Chargers to more locations this year and throughout 2021.

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COVID-19's Impact on Energy Use Will Be Felt Through 2050: Report

The coronavirus disease 2019 (COVID-19) pandemic will continue to impact global energy use through the first half of the 21st century, with demand over the next 30 years off 6% to 8% from original predictions, according to a new forecast by DNV GL

The company's Energy Transition Outlook also predicts that by 2050, energy use will be evenly split between fossil and non-fossil fuel sources and speculates that oil use might never again rise above pre-pandemic levels.

"COVID-19 has brought peak oil demand forward; oil use may never again exceed 2019 levels," analysts with the risk management and quality assurance firm wrote.

The DNV forecast says that due to the "massive, ongoing electrification of the global energy system," electricity's share of the energy mix will more than double from its current 20% level, with solar generation growing by 25 times its current level and wind-generated electricity increasing 10 times its current amount. The forecast sees electric vehicles making up more than half of global passenger vehicle sales by 2032.

"Our predictions are rooted in real-world experience with energy customers across the world spanning the full energy mix. Nevertheless, some of our readers may find our conclusions startling," wrote Remi Eriksen, president and CEO of DNV GL.

In the forecast, DNV analysts said that the economic impact and behavioral changes brought about by the COVID-19 pandemic will continue to impact global energy demand long after the virus has been dealt with. The forecast notes that the International Monetary Fund's longer outbreak projections predict a 6% reduction in world GDP in 2020, with economic growth impaired for the next five years. Meanwhile, demand for aviation will be 5% lower than thought prior to the pandemic, while commuting is estimated to drop by at least 2%.

A 6% to 8% reduction in global energy demand through 2050 will most severely impact oil and coal use, followed by gas, the DNV GL forecast said. Natural gas, however, will become the largest energy source by 2030, and remain so until 2050. The growth in electric power use comes as falling costs and technological advances make renewable energy more practical.

Even with fossil fuel use forecast to decrease, the DNV analysts said "the energy transition is nowhere near fast enough" to reach targets set in the Paris Agreement to reduce greenhouse gas emissions. The report forecasts that global CO2 emissions in 2050 will be half of current levels. That's far off both the 50% reduction called for by 2030 and the close to net-zero emissions needed by 2050, the analysts said. The report warns that, at current rates, global temperatures will likely warm by 2.3 degrees centigrade by the end of the 21st century.

"A lot more renewable power, decarbonization, energy-efficiency improvement, and carbon capture is needed," the report said. "The world will spend an over-smaller share of GDP on energy, allowing for additional investment to further speed up the transition."

The report warns that "market forces alone will not fix" carbon emissions from "hard-to-abate sectors," such as the heating of buildings, high-heat processes in industry and heavy transportation. Stronger policies and regulations are needed to push energy-efficiency improvements in these sectors, as well as the use of hydrogen as fuel and carbon capture technology, the report said.

The DNV GL forecast comes the same week that the International Energy Agency called for major effort to develop clean energy technologies globally. The IEA's Energy Technology Perspectives 2020 report also called for more efforts to reduce CO2 emissions from the transportation, industry and building sectors to meet climate goals.

"Much greater use of electricity in these sectors -- for powering electric vehicles, recycling metals, heating buildings and many other tasks -- can make the single largest contribution to reaching net-zero emissions," the IEA said.

The IEA report also looks to the use of hydrogen as a fuel in "industries where the direct use of electricity would be challenging, such as steel and shipping."

The IEA also calls for policy makers to take even more-active steps to develop policies to combat climate change, saying "governments need to play an outsized role in accelerating clean energy transitions towards meeting international goals."

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Trends: Bank Says Oil Demand Could Be 3 Years From Recovery

Bank of America energy analysts said it would take three years for global oil demand to recover to levels before the coronavirus disease 2019 (COVID-19) outbreak, assuming a vaccine or a cure to end the pandemic, in light of an expected sequential but uneven gains in petroleum consumption in the next several years.

BofA also said it expects world oil demand to peak in 2030 and then go into “terminal decline” driven by demand

erosion from substitution into electric vehicles (EV). In addition, the U.S. bank said the pace of oil demand drop could accelerate beyond 2030, if trucks and medium- to heavy-duty vehicles switch to alternative fuels such as hydrogen and fuel cells. Now, BofA said road traffic (vehicles) has almost fully recovered, and it expects global oil demand from such traffic to be in positive year-on-year growth territory by the end of this year. However, air-travel demand has recovered only moderately and is well below 2019 levels.

"We believe air travel will not recover materially beyond this point until we get a vaccine or an effective cure for COVID-19," BofA said. The bank said it expects air travel should rise to 75% of pre-pandemic demand by 2022, and 90% of normal by 2023, assuming a COVID-19 vaccine will be available in late 2021 and a 12- to 18-month time frame expected by most experts for a safe and effective vaccine that most governments around the world can roll out for mass immunization. "Overall, we see oil demand rising by 4 million b/d, to 104 million b/d from 2019 to 2025, but the path is uneven," BofA said. In its latest short-term demand outlook, the U.S. Energy Information Administration estimated 2020 global oil demand at 93.14 million b/d in 2020, down sharply from the 101.25 million b/d in 2019.

BofA's latest oil-market forecast stands in contrast to itsprevious outlook, issued in August, when it said global oil inventories except the U.S. and mainland China had almost returned to normal, as they forecast a Brent crude oil rally to $60/bbl by June 2021 and a flip back into a backwardation in 2021.

In late August, Goldman Sachs said likely COVID-19 vaccines in early 2021 combined with lower supply by both OPEC and U.S. shale producers is pointing to a faster-thanexpected rebalancing of the oil market in 2021. BofA recently stood by its previous forecast that Brent crude to average $50/bbl in 2021. In addition, the bank said that it now expects EVs as lightduty vehicles to rise to 34% of world vehicle sales by 2030, and 95% by 2050.

The increasing popularity of EVs in mostly developed countries prompted BofA to forecast oil demand to peak at 105 million b/d by 2030, and then decline to 95 million b/d in 2050. The bank said hydrogen fuel cell electric vehicles (FCEVs) might have more potential to become widely manufactured than battery electric vehicles in medium-heavy vehicles. If the EV share of medium-heavy vehicle sales starts rising from virtually nothing in 2030, to 95% of sales by 2050, then global oil demand will decline much faster than a scenario in which only light-duty EVs are replacing petroleum-powered cars, the bank said. If most trucks become electrified by 2050, BofA expects oil demand will decline to 76 million b/d at that time, or 19 million b/d below its base case without CEVs.

Trade Groups Urge Action Opposing Regional Cap-And-Trade

With a group of Northeastern states set to enter a pact creating a regional cap-and-trade program, industry representatives at the recent virtual Eastern Energy Expo stressed the need to raise awareness of the plan and begin a dialog on its impact on energy markets and prices. "I think the industry will serve itself if we can push this dialog – what they are doing and its impact – into the public voice," said Ellen Valentino, CEO of the Mid-Atlantic Petroleum Distributors Association Inc. during an EEE session.

The Transportation Climate Initiative (TCI) is a collaboration among 12 states from Maine to Virginia with the goal of developing a cap-andtrade program to cap carbon emissions from transport and invest in green transportation initiatives, said John Eick, manager, state outreach at the American Fuel and Petrochemical Manufacturers. While the group has existed since 2010, it is just now moving forward with plans to implement he program, he said.

The group is currently considering several models that would reduce emissions by 20%, 22%, or 25% by 2032. Those goals are expected to result in new taxes on gasoline of 5cts/gal, 9cts/gal, or 17cts/gal, though Eick said "it's a fair assumption the numbers will actually be higher than that."

But, even at the low end of the scale, the additional taxes will have an impact on motorists, he said.
"Five cents a gallon might not seem like a lot. But when you have to fill up a tank several times over the course of a year, that can certainly add up pretty quickly," he said.

The TCI is separate from the Regional Greenhouse Gas Initiative, a program among 10 Northeastern states to reducegreenhouse gases from the power sector. The only fuels affected by TCI will be gasoline and diesel, with "state fuel suppliers" that bring fuel into the participating states being the regulated entities, Eick said.

Participating states were supposed to release a memorandum of understanding earlier this year, but that has been delayed by the coronavirus disease 2019 (COVID-19) pandemic, and it is now expected to be released in coming months. States are expected to formally adopt the agreement next year, with the program going into effect in 2022, he said.

But even as the time for concrete action on the plan is approaching, questions remain about what the final cap level will be, how it will be apportioned by states, what the schedule for reductions will be, and the format of auctions for allowances.

Speaking during the seminar, Eick said that, as the plan moves forward, some state politicians from both sides of the aisle have expressed doubts or even opposition to increases in energy costs resulting from the cap-and-trade program.

"I think the final takeaway is that there are a number of policy makers who are skeptical of this policy or have serious concerns," he said. "More importantly, this a bipartisan reaction."

Valentino said now that the program is getting closer to reality, some politicians are suffering "sticker shock" when

realizing the financial impact of the cap-and-trade effort. "The impact of this proposal is going to increase gasoline prices fairly significantly. That's why you see governors and administrations ... taking a step back, taking a pause," she said.

While proponents of the TCI plan are eager to talk about its projected benefits, they have been less forthcoming when questioned about possible problems and the cost to motorists, Valentino said. She also faulted proponents for holding few public hearings on the plan and giving the public little advance warning about when they would take place. "They have been less than transparent. I think it is important to keep them real and keep the transparency button on them," Valentino said. "With that being said, I think it is a real issue, it's not going away."

Mike O'Halloran, state director, Maryland and Delaware, for the National Federation of Independent Business, said the plan's impact will be felt across the economies of the participating states, as prices rise to make up for the increases in transportation costs.

"The cost of goods and service will go up, there is no other way around it. The losers – you and me – are those of us who have to pay for this," he said.

Oil Prices Tumble More Than 7%

Oil prices dropped more than 7% to a multi-month low as analysts worry about the future demand of crude, CNBC reports. West Texas Intermediate crude plummeted 7.6% to $36.76 a barrel this week—a low point not seen since June. Brent crude declined more than 5.3% to reach $39.78 a barrel, also its lowest level since June.

"Today's oil price move is a clear sign that the market now seriously worries about the future of oil demand," said Paola Rodriguez-Masiu, senior oil markets analyst at Rystad Energy. "The streak of losses is driven by a stalling crude demand outlook for the rest of the year, with rising cases of COVID-19 and the end of the summer driving season in the U.S., as well as Asian refineries putting on [the] breaks."

Since April, when crude prices fell into the negative, oil prices have rebounded. In July, some analysts predicted prices would soar to $150 a barrel by 2025. Last month, Bank of America predicted oil prices would recover to $60 a barrel by early 2021.

But recently, oil prices have registered losses. Tuesday's dip came after Saudi Aramco slashed its official selling prices for October, which set off fresh concerns about demand. Bank of America's recent client notes said it would be three years before oil demand recovered completely from the effects of COVID-19.

"The market has its eye on the big picture: where and when we see demand normalize globally and what happens with both U.S. production and [the] OPEC+ agreement over the medium term," said Rebecca Babin, senior energy trader at CIBC Private Wealth Management.

Teenage E-Cigarette Usage Plummets

The number of high school students who frequently smoke electronic cigarettes declined significantly, according to a new study from the U.S. Centers for Disease Control and Prevention (CDC), the New York Times reports.

The 2020 National Youth Tobacco Survey showed that among high school students, 19.6% reported current e-cigarette use, down from 27.5% last year. Overall, 1.8 million fewer U.S. youth are using e-cigarettes compared to 2019.

"After two years of disturbing increases in youth e-cigarette use, we are encouraged by the overall significant decline reported in 2020," said Stephen Hahn, U.S. Food and Drug Administration commissioner, in a statement. "This is good news; however, the FDA remains very concerned about the 3.6 million U.S. youth who currently use e-cigarettes, and we acknowledge there is work that still needs to be done to curb youth use."

The Trump Administration in January banned flavored e-cigarettes except for menthol and tobacco but allowed the sale of flavored disposable e-cigs. "Although the decline in e-cigarette use among our nation's youth is a notable public health achievement, our work is far from over," said CDC Director Robert R. Redfield, in a statement. "Youth e-cigarette use remains an epidemic, and [the] CDC is committed to supporting efforts to protect youth from this preventable health risk."

Wednesday was the deadline for tobacco premarket review submissions. Manufacturers that don't submit e-cigarette systems for approval must pull them from the market. NACS requested that the FDA publish a PMTA list to help retailers understand which products are OK to continue to sell. Last week, the FDA's Center for Tobacco Products announced that it intends to publish a list of products for which they received PMTAs by the deadline. However, the agency clarified that the list would not be publicly available immediately.

"In the interim, we encourage retailers and other interested parties to refer to the public statements made by the companies or contact the companies directly to get information about applications they may have submitted," stated the Center for Tobacco Products. NACS has asked the agency to exercise its enforcement discretion in the interim since a retailer cannot credibly confirm that manufacturers have submitted PMTAs without a published list from the agency.

California Bans Menthol Cigarettes

The California legislature Friday passed a ban on the sale of menthol cigarettes following a 34-0 vote in the state Senate, the Wall Street Journal reports. The ban also covers all other flavored tobacco products, including e-cigarettes.

Gov. Gavin Newsome has until Sept. 30 to sign or veto the bill. The ban would take effect on January 1.

As NACS Daily reported last week, the California Retailers Association and the California Fuels and Convenience Alliance were among the business groups

opposing the bill. Opponents cited the impact on small businesses, as well as the bill's singling out communities of color. California Department of Public Health data indicate that about 70% of Black smokers in California smoke menthol cigarettes, compared with 18% of white smokers, the Journal said.

In June, Massachusetts became the first state to prohibit the sale of flavored tobacco products at convenience stores, gas stations and other retailers. The products can only be purchased for on-site consumption at licensed smoking bars.

The U.S. House of Representatives in March passed a bill banning traditional flavored tobacco products—menthol cigarettes, flavored cigars and smokeless tobacco. But the Republican-controlled U.S. Senate hasn't introduced a companion bill.

"The more of the U.S. population already under a menthol ban, the more political cover for Congress to do the same—which I think could happen in 2021 if the Senate flips," Stefanie Miller, managing director at investment adviser FiscalNotes Markets, told the Journal.

Alexa Helps Motorists Fuel Up at ExxonMobil Stations

Paying at the pump just got an assistant. ExxonMobil is teaming up with Amazon and Fiserv to deliver voice-enabled payment at more than 11,500 Exxon and Mobil locations.

On Sept. 1, "Alexa, pay for gas" went live, giving motorists with Alexa-enabled vehicles, devices like Echo Auto, or the Alexa app on their smartphones the option to pay through the virtual assistant.

With the solution, motorists can pull up to the pump and say, "Alexa, pay for gas." Alexa will confirm the station location and pump number, then activate the pump. The motorists can then select the fuel grade at the pump and begin fueling, with payment completed automatically afterward.

"We're thrilled to formally unveil this seamless, contactless payment option at our stations," said Eric Carmichael, Americas fuels marketing manager at ExxonMobil. "ExxonMobil has always offered cutting-edge payment solutions for our consumers, ultimately providing a better fueling experience. For those on the go, we know they'll enjoy paying for gas at the pump with just the command of their voice."

The commerce experience — including geo-location at Exxon and Mobil stations, pump activation, payment processing and payment tokenization — is powered by digital commerce technology from Fiserv. "Alexa, pay for gas" payments are made digitally via Amazon Pay, allowing consumers to securely use the payment method associated with their Amazon account; no additional sign-up or separate account is required.

"Changing consumer expectations and the ongoing COVID-19 pandemic are accelerating demand for contactless payment interactions that span digital and physical worlds," said Devin McGranahan, senior group president, Global Business Solutions at Fiserv. "The age of omni-commerce is here, and voice-activated smart devices are playing a pivotal role in enabling people to make purchases with speed, ease and convenience."

Visa Warns of E-Commerce Skimmer Threat

Visa last week issued a data security bulletin warning retailers of an e-commerce skimmer first identified in February on several merchant websites worldwide, and the credit card firm offered businesses advice on best practices and mitigation measures to reduce the threat of a data breach.

Visa said the previously unknown skimmer, which it named Baka, "loads dynamically to avoid static malware scanners and uses unique encryption parameters for each victim to obfuscate the malicious code." Visa said the "skimmer variant avoids detection and analysis by removing itself from memory when it detects the possibility of dynamic analysis with developer tools or when data has been successfully exfiltrated."

Visa has identified seven domain names hosting the Baka skimmer: jquery-cycle[.]com; b-metric[.]com; apienclave[.]com; quicdn[.]com; apisquere[.]com; ordercheck[.]online and pridecdn[.]com.

Visa's best practices and mitigation measures include:

- Institute recurring checks in e-commerce environments for communications with the C2s.
- Ensure familiarity and vigilance with code integrated into e-commerce environments via service providers.
- Closely vet utilized Content Delivery Networks (CDN) and other third-party resources.
- Regularly scan and test e-commerce sites for vulnerabilities or malware. Hire a trusted professional or service provider with a reputation of security to secure the e-commerce environment. Ask questions and require a thorough report. Trust, but verify the steps taken by the company you hire.
- Regularly ensure shopping cart, other services, and all software are upgraded or patched to the latest versions to keep attackers out. Set up a web application firewall to block suspicious and malicious requests from reaching the website. There are options that are free, simple to use, and practical for small merchants.
- Limit access to the administrative portal and accounts to those who need them.
- Require strong administrative passwords (use a password manager for best results) and enable two-factor authentication.
- Consider using a fully hosted checkout solution where customers enter their payment details on another webpage hosted by that checkout solution, separate from the merchant's site.
- Implement best practices for securing e-commerce.
- Refer to Visa's What to Do if Compromised (WTDIC) document, published October 2019.

Work Hours For Minors

The number of hours a minor may work per day and per week depends upon the youth's age, the type of work being performed, and whether school is in session. New York State has one of the most stringent chiId labor laws in the country, which limits the number of hours that minors under 18 years of age may work when school is in session. It requires that l6 and l7 year olds may not work past l0 PM on the night before a school day without permission from a parent and a certificate of satisfactory academic standing from their school. Minors may not work during the hours when they are required to attend school. When school is in session, generally from September-June, minors 14 and 15 years old may not work for:

- More than three hours on any school day
- More than eight hours on a non-school day (Saturday, Sunday and holidays)
- More than 18 hours in any week
- More than six days in any week.

However, 14 or 15 year old minors who are employed as part of a supervised work study or work experience program that is approved by the Commissioner of Education may work three hours on a school day and 23 hours a week, instead of three hours a day and 18 hours a week. When school is in session, minors 16 and 17 years old enrolled in a day school, other than a part-time or continuation school, may not work for:

- More than four hours on any day preceding a school day (Monday - Thursday)
- More than eight hours on Friday, Saturday, Sunday or holiday
- More than 28 hours in any week
- More than six days in any week.

However, students enrolled in a cooperative work experience program approved by the Department of Education may be employed up to a maximum of six hours on a day preceding a school day other than a Sunday or a holiday if these hours are in conjunction with the program. Any hours worked in such program shall be included when calculating the number of hours worked for the four-hour maximum.

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