

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

FROM: Kurt Evans, Government Affairs Manager
Santa Clara Valley Transportation Authority

DATE: October 19, 2009

SUBJECT: Weekly Legislative Update: Week of October 12, 2009

FEDERAL

Traffic Safety: Kicking off a two-day meeting on preventing drivers from using mobile devices behind the wheel, Transportation Secretary Ray LaHood called distracted driving a “menace to society.” He reported that nearly 6,000 people were killed and a half-million injured last year in vehicle crashes connected to driver distraction, a striking indication of the dangers of talking on cellphones and texting while operating a motor vehicle.

For the two-day session, the U.S. Department of Transportation brought together experts to take a hard look at the highway hazards caused by drivers talking on cellphones or texting from behind the wheel. LaHood said he wanted to use the session to develop recommendations that could lead to new restrictions on using these devices while driving. He indicated that he wants to address the problem “similar to what went on with seat belts and blood-alcohol limits of 0.08, where you really educate the public, where you tell people that they have to take personal responsibility for these things.” LaHood commented that previous efforts to reduce drunken driving and encourage motorists to wear seat belts “taught the government that we need a combination of strong laws, tough enforcement and ongoing public education to make a difference.”

Congress is watching closely. In fact, several Democratic senators have introduced legislation that would require states to ban texting or e-mailing while operating a moving vehicle or risk losing 25 percent of their annual federal highway funding. While the White House has not taken a position on the bill, LaHood said the administration is willing to work with Congress to develop ways to curb distracted driving.

Eighteen states and the District of Columbia have passed laws making texting while driving illegal, and seven states and the District have banned driving while talking on a handheld cellphone. California has laws addressing both. Many safety groups have urged a nationwide ban on texting and on using handheld mobile devices while behind the wheel.

Climate Change: The head of the U.S. Environmental Protection Agency (EPA), Lisa Jackson, said carbon dioxide is likely to be declared a dangerous pollutant, a move that could help propel climate change legislation on Capitol Hill. She noted that a formal “endangerment finding,” which would trigger federal regulations on greenhouse gas emissions, probably would “happen in the next months.” The House narrowly passed a broad energy and climate change bill in June, but supporters have moved more slowly in the Senate, where the issue has been trumped by work on health care reform.

The EPA kick-started the regulatory process in April when it proposed declaring carbon dioxide and five other greenhouse gases as pollutants that jeopardize the public health and welfare. The agency can formalize the finding anytime, now that it has closed a 60-day public comment period that netted more than 300,000 responses. A formal endangerment finding would obligate the EPA to regulate greenhouse gas emissions under the federal Clean Air Act, even if lawmakers do not pass a climate change bill.

President Barack Obama and Jackson have said they would prefer that Congress, rather than the EPA, take the lead in implementing new greenhouse gas limits. Businesses and energy industry leaders also have largely favored congressional action over EPA-imposed limits because they believe lawmakers are better positioned to combine economic safeguards with any new carbon cap. However, Jackson said the EPA would continue on a path that began when the U.S. Supreme Court ruled in 2007 that greenhouse gases qualified as pollutants and could be regulated if the federal government determined that they threatened the public.

Airline Safety: Many jet pilots operate under flying-time rules written in the era of propeller-driven planes, raising fatigue problems that industry and union leaders want solved. However, finding ways to prevent pilot fatigue has stymied federal regulators and the airline industry for decades. The National Transportation Safety Board has been recommending since 1990 that rules on how many hours pilots can be scheduled to work be updated to reflect modern research, and to take into account early starting times and frequent takeoffs and landings.

Recently, a committee made up of airline officials and union leaders delivered recommendations for updating the regulations. Although the Federal Aviation Administration (FAA) has promised to vet those recommendations swiftly and to turn them into a formal proposal by the agency, the process will at a minimum take months to complete.

Meanwhile, some members of Congress are not confident that the FAA will finally come to grips with the problem. Besides forcing the agency’s hand, a bill proposed by lawmakers would require the airlines to use fatigue risk management systems—complex scheduling programs that would alert the airlines of potential fatigue problems. After the House Transportation and Infrastructure Committee approved the bill, Chairman James Oberstar (D-MN) ran through a list of the airline crashes in recent decades, noting: “The common thread running through all of it is fatigue. We have many experiences of the flight crew, the cabin crew, who in cases of emergency were just so numb they couldn’t respond instantly to a tragedy at hand.”

FAA rules on how many hours airline pilots may fly or be on duty before they must rest have been virtually unchanged for nearly a half-century, mainly because if airlines have to allow their

crews more rest, they would have to hire more employees. An FAA effort to tackle the issue in the mid-1990s stalled because airlines wanted concessions from pilots in return for reducing flying hours, and the pilots unions were not willing to go along.

Current rules say pilots can be scheduled for up to 16 hours on duty and up to eight hours of actual flight time in a day, with a minimum of eight hours off in between. However, the rules do not take into account that it is probably more tiring for regional airline pilots to fly five or six short legs in seven hours than it is for a pilot with a major airline to fly eight hours across the Atlantic to Europe with only one takeoff and landing.

STATE

HOV Lanes: One of California's most coveted motoring perks is up for grabs again. The yellow decals that give nearly 85,000 solo hybrid drivers—mainly Toyota Priuses—free access to the state's carpool lanes are set to expire at the end of 2010. Some lawmakers want the state to give out another round of the stickers in January 2011 to boost the sales of the next generation of fuel-efficient vehicles. But the move has automakers battling over which cars should qualify for the stickers. It also could draw scrutiny from federal highway officials, who have already ordered California to address congestion in its overcrowded carpool lanes. And some public transit advocates argue that the state should use the lanes as intended—for carpools and buses.

For General Motors, which is sponsoring SB 535 (Yee) to allow for the issuance of 65,000 new carpool stickers for vehicles getting better than 65 miles per gallon (mpg), a flood of new decals in early 2011 would coincide with the launch of its Chevrolet Volt. The company says the car, the first mass market plug-in hybrid, will run 40 miles on a battery charged from a wall socket. A gasoline engine will kick in for longer trips. The Volt is likely to cost more than standard hybrids, and consumers may be leery of its new technology. General Motors hopes to hook buyers with carpool-lane access.

Meanwhile, Toyota and Ford are lobbying for changes to SB 535, and their opposition helped to stall the legislation this year. Both object to the 65 mpg standard in part because it would probably exclude their models, at least at first. Toyota also is arguing that using a miles-per-gallon standard is inappropriate because the federal government has not finalized a method for measuring the fuel efficiency of plug-in hybrids. In the next few months, Toyota plans to launch a 500-vehicle test of its plug-in hybrid, which is capable of running 12 miles on battery power. But the company is not expected to roll out the technology widely until after the Volt's release. Ford, which plans to market a plug-in hybrid by 2012, wants a wider variety of models, including vehicles that make fuel-efficiency improvements within a class such as hybrid SUVs, to be eligible for at least some of the stickers.

Mainstream environmental groups have been pointedly neutral. While they do not want to be seen as hindering fuel-efficient vehicle sales, they worry about hybrids clogging up the carpool lanes. On balance, these groups say it is not clear that issuing more stickers would deliver an environmental benefit. Some public transit advocates, on the other hand, are strongly opposed to the bill. TransForm points out that some of the Bay Area's most congested carpool lanes are also places where residents need little extra incentive to invest in a green car.

The hybrid sticker program was created by a 2004 state law and became an instant hit. Nearly 40,000 yellow stickers were snapped up within the first four months they were available. A 2006 bill raised the cap on the stickers from 75,000 to 85,000, and extended the original sunset date by three years.

Earlier, a 1999 law authorized the issuance of stickers to cars running on natural gas or full battery power. But according to the Department of Motor Vehicles (DMV), only about 9,500 vehicles have those stickers, which are white instead of yellow. These white stickers are set to expire at the end of 2010, but would be renewed under SB 535. Their usage is likely to go up, as a number of all-electric vehicles are headed to the market, including a mass-produced model from Nissan.

California is one of eight states to give hybrids access to carpool lanes. The state had to get permission from the Federal Highway Administration (FHWA), which has since expressed concern that California is overloading the lanes. Under federal orders, Caltrans is in the process of developing ways to address this problem, such as with electronic signs that would order hybrids out of the carpool lanes when traffic speeds drop below a certain level.

REGIONAL

Bay Area Toll Authority (BATA) Oversight Committee: At its October 14 meeting, the BATA Oversight Committee considered proposals to increase tolls on the state-owned toll bridges in the Bay Area as a way to fund seismic retrofit work on the Antioch and Dumbarton Bridges. The cost to retrofit the Antioch Bridge is estimated at \$267 million, while the Dumbarton Bridge will cost \$483 million. The proposal includes charging carpoolers a toll, increasing the existing toll for autos and trucks, and implementing congestion pricing on the Bay Bridge. BATA will be holding public meetings between now and the end of the year to solicit input on the options. The full BATA board is expected to take action in January, and the new toll rates would become effective on July 1, 2010.

NOTE: Also contributing to this report were Susan Lent with Akin Gump Strauss Hauer & Feld; Mark Watts with Smith, Watts & Company; and Scott Haywood, VTA's Policy and Community Relations Manager.