

TRANSTRENDS



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TRANSTRENDS is published monthly for friends and clients of the Translaw Group, Inc. The information provided in this newsletter is not intended as specific advice on a particular subject. Rather, the information is for general edification. Further, this information is time sensitive and may need to be revised and updated from time to time. Please feel free to call this office with your specific questions at 413 781 8205, or you may e-mail the office at [jburns@transregs.com](mailto:jburns@transregs.com).

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### HOW DO YOU SPELL TAX RELIEF

**Massachusetts** wants to cut fuel tax; other states pursue similar plans.

With prices at the pump hovering near \$3 per gallon, leading Republicans in **Massachusetts** want to waive the state's 21-cent-per-gallon fuel tax through Labor Day. House Minority Leader Bradley Jones Jr., R-North Reading, has proposed a diesel and gasoline tax holiday.

The effort, however, doesn't address the status of the International Fuel Tax Agreement requirements for miles driven in Massachusetts. So, even if the tax is suspended at the pump, truckers could end up owing it at the end of the quarter when they file their IFTA paperwork and payments.

"People might take a vacation or rent a car and travel around and visit our museums and restaurants. We think (revenue from) the meals tax and the hotel/motel sales tax would go up and we would attract truckers stopping at a Massachusetts truck stop rather than Connecticut, Rhode Island or Maine. They are going to spend some money while they're in the store. That's going to help with the economic stimulus we want."

Other states where fuel cost relief actions are being sought include:

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An **Alabama** House Democrat has requested that Republican Gov. Bob Riley open a special session so lawmakers can discuss a possible repeal of the state's fuel tax.

In **California**, a bill died in committee that sought to eliminate the state's sales tax on gasoline.

**Connecticut** Gov. M. Jodi Rell said she would consider a legislative effort to suspend the state's per-gallon tax on diesel and gasoline for the summer.

In **Delaware**, a bill was introduced that would suspend the state's excise tax on diesel and gasoline for June through September.

**Georgia** Democrats are calling for a 60-day moratorium on the state's per gallon taxes on fuel.

A **Minnesota** House lawmaker has introduced a bill that would suspend the state's 20-cent-per-gallon tax on gasoline-based fuels for six months but no similar break on diesel.

A Republican hopeful for the **Nevada** governor's seat is calling for the state's portion of the gas tax to be repealed but not on diesel.

In **New Hampshire**, a Republican gubernatorial hopeful is calling for a suspension of the state's per-gallon tax on diesel and gasoline for the summer.

Some Republican lawmakers in **New Mexico** have plans to push Democratic Gov. Bill Richardson to round up the Legislature for a special session to discuss suspending the state's tax on diesel and gasoline.

**New York** Gov. George Pataki's signed a bill into law "capping" the sales tax on diesel and gasoline. The sales tax cap calls for the state to add sales tax to only the first \$2 worth of a gallon of diesel or gasoline. That would cap the tax at 8 cents per gallon – saving consumers about 4 cents per gallon at current prices.

**North Carolina** Gov. Mike Easley, a Democrat, has asked state lawmakers to cap the state's per gallon tax on diesel and gasoline so that the rate will not increase from the current level.

In **South Carolina**, a bill sent to a House-Senate conference committee would cut prices at the pump for three months from Oct. 1 through Dec. 31.

Democrats in the **Texas** House are calling for a 90-day suspension of the state's 20-cent-per-gallon tax on motor fuels.

**FUEL LINE:** The Translaw Group, Inc. received an answer to its letter to Mr. LeBovidge of the Massachusetts Department of Revenue concerning the ST-10 excise tax. As expected, Mr. LeBovidge said to take the matter up with the legislature. We are pleased that we received a respectful response from the MA DOR and we have passed the correspondence along to a state legislator.

The following is the text of Mr. Lebovidge's letter.

May 11, 2006

Mr. James M. Burns  
The Translaw Group, Inc.  
P.O. Box 4835  
Springfield, MA 01 101-4835

Dear Mr. Burns:

Thank you for your letter of April 28, 2006 concerning the impact that rising gasoline prices have on the Massachusetts Turnpike (Pike) gas tax refund program. You are correct in observing that should gas prices continue to increase, we will reach a point at which it will be cheaper to pay the gasoline excise related to Pike gas consumption, than to apply for a gasoline excise refund and pay a 5% use tax on the purchases.

You are also correct, that the use tax is assessed under Massachusetts law. If you wish to see some relief or change in this area, you will need to pursue a legislative remedy.

Enforcing the use tax law on out-of-state carriers has been a challenge. We are using our newly developed data warehouse and information exchanges with other states to address non-compliance among these carriers.

Thanks again for offering your input. I appreciate hearing from concerned practitioners.

Sincerely,

Alan LeBovidge  
Commissioner of Revenue

## **NO SKID ZONE:**

### **SUBWAY RIDER BUSTED FOR SELLING A TOKEN**

Transit police handcuffed and cited a man who sold a \$1.75 subway token to another rider who was having trouble with a token vending machine. Transit authority spokeswoman Jocelyn Baker said Friday that the officer "acted within the law" after he spotted Donald Pirone, 42, selling the token inside the West End subway station.

Instead of giving Pirone a warning, the officer decided to handcuff him and give him the misdemeanor citation under a 1992 state law that bars passengers from selling Metropolitan Atlanta Rapid Transit Authority tokens, she said.

"What you've got to keep in mind is that fare abuse is a chronic problem," Baker said. "It costs MARTA millions of dollars every year."

Baker acknowledged that Pirone sold the token at face value and did not make a profit. But the law is the law, she said.

"There are customer service phones for people who are having trouble getting tokens out of the machine," Baker said. "The fact is, our officer acted within the law." As for the handcuffs, Baker said the officer felt they were necessary.

"I gave him a token and, I guess out of his generosity, he gave me the money for it," Pirone said. "But I didn't ask him for money."

***Apparently, the Atlanta Transit Authority is uneasy about the competition it faces with \$1.75 subway tokens.***

### **TOP SENATOR AND TOLL ROAD SUPPORTER OUSTED BY INDIANA VOTERS**

Rep. Mary Kay Budak, R-La Porte, a supporter of the Indiana Toll Road lease, lost her seat in the primary election after having represented La Porte, Jasper, Porter and Pulaski counties since 1980.

Budak saw Tom Dermody elected with 70 percent of the vote to face a Democratic opponent in the November general election. Dermody, a Republican, is an opponent of the toll road lease.

The Indianapolis Star reported that Budak's defeat had a lot to do with how voters viewed Gov. Mitch Daniel's "Major Moves" plan and the leasing of the Indiana Toll Road to a private consortium from Spain and Australia.

Representative Budak was the only one who lost (because of the toll road). However, it will be a different story in November, because the Democrats are going to use the toll road against Republicans. The toll road has been very unpopular in northern Indiana.

### **PENDING BILL WOULD LABEL FLORIDA DRUNKEN DRIVERS, SEXUAL OFFENDERS**

A pair of bills in the Florida House of Representatives would put special marks on certain driver's licenses and license plates.

Sponsored by Rep. Fred Brummer, R-Apopka, the bill, awaiting consideration on the House floor would require bright orange-pink colored license plates with the letters "DUI" to be used on vehicles driven by people with restricted driving privileges because of convictions for driving under the influence.

The bill would require the orange plates to be placed on any vehicles DUI offenders drive, regardless who owns them. The plates would cost \$20 a year, in addition to regular license fees. Opponents say the requirement would lead to unfair scrutiny and labeling of individuals. Supporters say it is needed to help the public to know that the driver could be dangerous.

Similar provisions are in place in other states. Georgia and Minnesota use a special combination of numbers or letters to identify motorists convicted of driving while intoxicated, while Ohio makes yellow plates with red numbers mandatory. In addition, Michigan uses paper tags to identify repeat offenders, while Oregon and Washington put a zebra sticker over the plate of habitual offenders.

Another effort in the Florida House getting attention would put a special mark on driver licenses for sexual offenders and predators. Sponsored by Rep. Charles Dean, R-Inverness, the bill would require sexual offenders and predators to obtain licenses or identification cards that display their conviction number. Individuals with prior convictions also would be required to have the special mark, the St. Petersburg Times reported.

Supporters say the measure would help schools identify what kind of visitors are trying to enter their campuses. Opponents say it would unfairly bring shame on people.

The Oklahoma House has overwhelmingly approved a similar measure that would identify registered sex offenders on their state driver's licenses.

### **MINETA SAYS TOLLS, PRIVATIZATION COULD RESOLVE FREIGHT DELAYS, CONGESTION**

The U.S. Department of Transportation Secretary Norman Y. Mineta said solutions to traffic jams and freight delays could include more toll roads and private leases for U.S. infrastructure.

Mineta stated on the DOT Web site that he hopes states will enact legislation to create public-private partnerships, as outlined in his new initiative, the "National Strategy to Reduce Congestion on America's Transportation Network."

The \$1.8 billion Chicago Skyway lease and the proposed \$3.85 billion Indiana Toll Road lease – both to the Spanish-Australian consortium known as Cintra-Macquarie – are examples of "growing interest of private sector capital investors in the U.S. transportation system."

Mineta highlighted a six-point plan to relieve congestion in urban and port areas, and to encourage private investment in the transportation system.

Highlights of that plan include:

- Tolls, also known as "congestion pricing"
- Creating more express busing
- Using agreements with large employers to increase telecommuting
- Removal of federal barriers on states that seek private-sector investment in transportation
- Pilot programs for things like tolling
- Using the SAFETEA-LU, the highway funding legislation signed by President Bush in August 2005, to encourage public-private partnerships.

### **TWIC PROGRAM RULES FINALLY PUBLISHED**

The proposed rulemaking containing details of the Transportation Worker Identification Credential program was published in the Federal Register on Monday, May 22. Any workers who require unescorted access to secure areas of port facilities and vessels will be required to have a TWIC card, including truckers, longshoremen, port operator employees and rail workers.

In early May the Department of Homeland Security said the fee would be \$105 for workers with current, compatible background checks – such as hazmat endorsements – and \$139 for everyone else.

However, the actual proposed rule states that fees are expected to range from \$95 for workers such as hazmat haulers who already have current and valid background checks to \$149 for all other applicants. The proposed rule details the rollout of the program and states that the Transportation Security Administration would install 125 enrollment locations, which would serve about 300 ports.

The ports will be divided into three groups based on their level of security threat and other factors. While no ports have been assigned to any group yet, the start dates for each group are as follows, with Group 1 being the most critical in terms of security:

Group 1 – not later than 10 months after the effective date of the final rule.

Group 2 – not later than 15 months after the effective date of the final rule.

Group 3 – not later than 18 months after the effective date of the final rule.

TSA estimates it will take a total of five years for total enrollment in the TWIC program, which is expected to register almost 1.17 million workers.

The proposed rule is now in a 45-day public comment period. Comments may be made anonymously by anyone.

### **CORDLESS JUMP-ROPE CAN HELP THE CLUMSY**

WASHINGTON-If you think keeping fit is merely mind over matter, Lester Clancy has an invention for you - a cordless jump-rope. That's right, a jump-rope minus the rope. All that's left is two handles, so you jump over the pretend rope. Or if you are truly lazy, you can pretend to jump over the pretend rope.

And for that idea kicking around Clancy's head since 1988, the U.S. Patent Office this month awarded the 52-year-old Mansfield, Ohio, man a patent. Its number: 7037243.

What makes this invention work is the moving weights inside the handles. They simulate the feel of a rope moving, Clancy said. Well, it's only one handle so far because Clancy is waiting for financial backers before building its partner.

But why jump rope without a rope?

It's perfect for the clumsy, Clancy said. "If you are still jumping, you're still using your legs as well as your arms, and getting the cardiovascular workout. You just don't have to worry about tripping on the rope." It is also good for mental institutions and prisons where rope is a suicide risk, said Clancy, who works as a laundry coordinator in a state prison. And low ceiling fans aren't a hazard any more, he said.

The idea isn't all that crazy, said Mike Ernst, a professor of kinesiology at California State University in Dominguez Hills. "I think it's silly but at the same time if somehow, some way it promotes physical activity, gets kids active, then I'm all for it," Ernst said. The more he thought about it, the more Ernst said he could see the benefit, adding that the act of jumping, not the rope itself, is what provides exercise. "Do you need to jump with a rope? You don't," Ernst said. "But I wouldn't buy the product, I can tell you that. I'm not an idiot." High-tech handles aren't needed. You could even use toilet paper holders, Ernst said. On second thought, he wondered if he could patent that idea.

***Other ideas that may arise include a cordless tetherball set, a cordless dog leash that has a moving weight inside the handle to stimulate the feel of a real leash, and fishing poles without string to prevent tangles.***

### **POLICE HIT GRANDMOTHER WITH TASER GUN FIVE TIMES**

FRANKLIN, Ohio - A 68-year-old woman was hit with a taser gun by police in an Ohio city five times. The police officer in the case, a lieutenant with the Franklin Police Department, claims he is the victim in the case, NBC 4's Mike Bowersock reported.

Beverly Kidwell, 68, was in the waiting room of the police department in suburban Dayton when the incident occurred. According to police, she came into the station to be arrested for hitting her granddaughter. Kidwell said she waited a long time in the lobby and, when she got up to leave, the officer hit her with the taser gun.

"I don't know if he thought I was going to get up and leave or what, but he pulled his gun. I thought it was a gun. I'd never seen a taser gun in my life and I thought, 'Oh my God. He's going to shoot me. He's going to kill me,'" Kidwell said.

The police lieutenant said she was resisting arrest, Bowersock reported. Kidwell said she was in a fetal position and unable to move when the lieutenant ordered her to get up and continued to shock her. The woman survived five jolts and had to be taken to an area hospital.

***The old woman takes a licking and fortunately, she keeps on ticking.***

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