

Telecommunications: In Washington...

Telecommunications has emerged from the shadows of electricity and gas utilities to be a major consumer issue. High impact decisions in Washington and around the country are breaking quickly and consumer groups are mounting an all-out offensive to keep pace. (See article below.)

Competition and Costs

Seven billion dollars in rate increases are currently pending in 22 states and consumers in 26 additional states are expected to get the bad news about rates in the next year.

Not to be outdone by the telephone companies' assault on the states, the Federal Communications Commission has its own New Year's Day surprise for telephone customers—the access charge for long-distance, which will force residential customers to pay a fee every month just for the right to make long distance calls, even if they never do so.

What does all this mean to the average customer? Rate filings from one state—Missouri—give us a clue. In its request for a \$255 million increase, Southwestern Bell would collect \$19/month for basic service, double the

present rate. And the cost of connecting a residential line would more than double—to \$48.75 from \$21.90.

An End to Universal Service?

Assessing the impact nationwide, Lee Richardson, CFA Vice-President said: "It's the same in state after state, \$2.1 billion in California, \$378 million in Pennsylvania, \$245 million in New Jersey." What's even more distressing, according to Richardson, are the implications of these increases on who can (and cannot) afford the phone of the future. "AT&T's own research demonstrates that if phone rates double, 21% of all users will not be able to pay for service; and 53% of low-income consumers will be forced to forego a telephone. Unless something is done, that's a very scary but a very likely scenario."

Enter Congress

Consumers' major hope for short term relief lies with Congress, according to CFA Legislative Representative Glenn Nishimura. "The key members on telecommunications issues—Senator Bob Packwood (R-OR) and Congressmen John Dingell (D-MI) and Tim Wirth (D-CO)—have begun to move on

legislation and action is expected as early as October." The major initiatives, Nishimura explained, will be to overturn the FCC Access Charge ruling and to provide a system of subsidies to rural and low-income consumers who otherwise will face enormous charges for basic service.

Facing the Future

For the long-run, however, Nishimura pointed out that consumers need to organize themselves to participate fully in future telecommunications battles at the state and national level. Perhaps the key tool in this effort will be the TELECUB legislation offered by Congressman Edward Markey (D-MA), which would allow consumers from across the nation to pool small amounts of money into one well-funded organization to take on telephone issues wherever they emerge.

"TELECUB is one of the only ways consumers can ever hope to compete with the lawyers, economists and other experts of the phone companies," said Nishimura. "As in the Wisconsin CUB situation, consumers under this legislation would receive TELECUB solicitations along with their monthly phone



bills, make voluntary contributions and vote to elect the board of directors."

The legislation will face hard going, according to Nishimura, but several consumer groups are expected to concentrate their lobbying efforts on the TELECUB amendment in hopes of winning passage.

...And at the Grassroots by Judith Bell, Associate Director San Francisco Consumer Action

Consumer groups are campaigning at local, state and national levels to preserve universal telephone service. Their work includes intervening in rate cases before Public Utilities Commissions (PUCs), working with legislators, and educating the public about the potential effects of the AT&T divestiture and Federal Communications Commission (FCC) decisions.

In Northern California, one consumer advocacy group, San Francisco Consumer Action (CA), is using several of these approaches. As a result of the conference—"Telephone Issues in California"—CA began publishing *Telephone Alert*, a newsletter monitoring regulatory and legislative proceedings.

CUS the Phone Company

In addition, CA in conjunction with Public Advocates (a public interest law firm), organized Californians for Universal Service (CUS) to respond to Pacific Telephone's massive rate increase requests and the FCC access charge decision. At press conferences in Los Angeles and San Francisco, and in meetings with PUC Commissioners, CUS claimed that Pacific plans to quadruple basic phone rates.

According to CUS, "over half of the poor (54 percent) and two-thirds of minorities (67 percent) will go without telephone service if rates triple, much less quadruple." CUS urged the PUC to lead a national effort to overthrow the FCC access decision and maintain adequate revenues for local operating companies.

CUS participants include: Consumer Federation of California, Sacramento Urban League, League of United Latin American Citizens, Coalition of Agencies Servicing the Elderly, and Chinese for Affirmative Action. Currently the group is drafting a letter to members of California's congressional delegation urging them to support the Dingell-Wirth bill, the Universal Telephone Service Preservation Act of 1983 (HR 3261). This legislation would repeal the FCC access charge decision and institute other changes aimed at preserving universal service.



Intervention Pays Off

Representing Consumer Action and other California consumer groups, Toward Utility Rate Normalization (TURN) has intervened in many Pacific Telephone rate cases. Recently, TURN petitioned the PUC to have Pacific rebate to consumers the estimated \$88 million saved in labor costs as a result of the Communication Workers' strike.

Intervention in rate cases is also a common tactic in other areas of the country. Public Interest Research Groups in Missouri (MOPIRG) and Michigan (PIRGIM) have been particularly active. MOPIRG is an intervenor in the \$255 million Southwestern Bell case in which the increase is linked to divestiture.

Tom Ryan, MOPIRG's executive director, indicated that the consumer group believes the company is "using the smokescreen of divestiture" to implement unnecessary increases. MOPIRG is challenging the company's contention that local service has been subsidized by long distance. Ryan pointed to the Idaho PUC decision which characterized the subsidy argument as "patently biased in favor of AT&T's long lines service that we find it difficult to take seriously."

MOPIRG is also pushing the Missouri congressional delegation to sponsor HR 3261 and Senator Packwood's bill, S 1660. These bills institute changes to maintain universal telephone service.

Affordable Phone Service: A Consumer Priority

Several of PIRGIM's strategies are similar to MOPIRG. They recently intervened in a \$451 million Michigan Bell rate case. Their work won a decision limiting the rate hike to \$182 million. In addition, the Bell company agreed to donate \$155,000 annually for the next five years to fund research on maintaining universal service. The funds will be allocated by a board composed of a Public Utility Commission member and a representative from both the Attorney General's Office and a consumer group.

Dozens of other citizen groups are also addressing the issue of divestiture. If the percentage of homes losing telephone service rises significantly, they will be joined by many more.

Coalition Moves To Reduce Sugar Prices

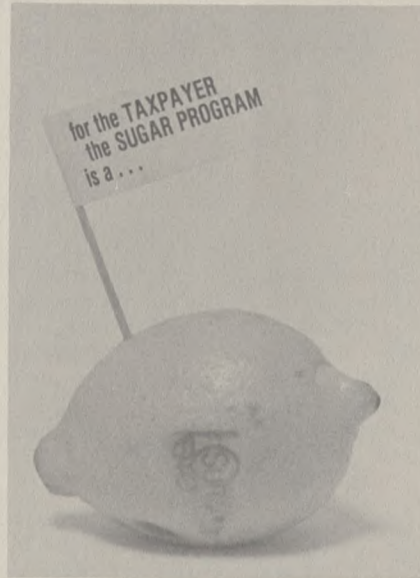
Overshadowed by debate on broader farm issues, Senate legislation to reduce sugar prices was not voted on this summer. But in early August, the sugar users coalition, which includes Consumer Federation of America and Public Voice, took new initiatives to bring down these prices.

Earlier this year, Senators Dan Quayle (R-IN) and Paul Tsongas (D-MA) introduced legislation (S 788) to reduce the sugar loan rate by 3¢ per pound. As a study completed in May by Schnittker Associates helped confirm, such a reduction would reduce consumer prices by nearly \$1 billion annually. The economic consultants calculated that each one-cent rise in the price of raw sugar costs consumers at least \$300 million in higher retail prices for sugar and corn sweeteners.

Legislation now before the Senate would save consumers nearly \$1 billion annually, according to one study.

In June and July, the sugar users coalition helped build momentum for S 788 to the point where it stood a reasonable chance of passage. But the bill took a back seat to a broader Senate debate over target prices for grain and other agricultural commodities, and never came up for a vote.

Though temporarily thwarted in the Senate, almost immediately the coalition petitioned the United States Department of Agriculture to reduce the differential between the loan rate and the market stabilization price for sugar. The coalition argued that such a reduc-



tion would reduce sugar prices with little risk of loan forfeiture, and non-budgeted federal expenditures.

The same week, Representatives Tom Downey (D-NY) and Willis Gradison (R-OH) introduced legislation (HR 3727) to prohibit the use of import quotas on sugar. The Administration imposed quotas last year to raise and hold sugar prices above 20¢ per pound to prevent forfeiture. HR 3727 would have the effect of encouraging the Administration to seek lower support price levels, or watch non-budgeted spending (and deficits) escalate.

CFA Executive Director Stephen Brobeck characterized all three initiatives to lower sugar prices as "moderate reforms that would continue to provide substantial subsidies to producers."

Lawyers Fight for Special Exemption from the Law

by David Greenberg, Legislative Director

Equality under the law is a powerful idea in America. It's in our Constitution, our schoolbooks, our history, our folklore. Except somebody forgot to tell the group that ought to know it best: the American Bar Association, the trade association of lawyers nationwide.

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Taking a page from the American Medical Association's legislative book, the lawyers are asking Congress to exempt them from the antitrust and consumer protection powers of the Federal Trade Commission. Led by the Texas Bar, the lawyers' campaign has received some initial support on Capitol Hill, where Senator Ted Stevens (R-AK) and Congressman Sam Hall (D-TX) stand ready to offer the exemption as an amendment to a variety of FTC bills, including the Commission's reauthorizing legislation, appropriations bill or continuing resolution.

The lawyers' effort is long on rhetoric about states rights and self-regulation, but short on merit. The Supreme Court has already decided that lawyers are not exempt from federal law, nor should they be—the law is big business with ample opportunities for price fixing and consumer fraud.

Perhaps most amazing about the ABA's grab for special exemption is that the FTC has taken little action against lawyers, confining itself to a questionnaire about advertising and a survey of pricing practices. Yet even this small amount of attention has the President

of the Dallas Bar likening the FTC to Adolf Hitler.

The lawyers' arguments may be weak but their clout is substantial. Lawyers are big political contributors to begin with. In addition, a large percentage of

Law is big business with ample opportunity for price fixing and consumer fraud—it should not be exempt from federal law.

Congressmen are lawyers and many are present or ex-members of the ABA.

Further, the ABA efforts threatens to unravel the hard-fought compromise that Congress has reached with the AMA on the FTC jurisdiction over professionals. If the doctors sense that they can now join with lawyers in a legislative effort, the FTC will be in dire trouble.

Finally, from a political standpoint the lawyers' exemption issue is more complicated than the doctors' fight. The AMA has been battling nurses, optometrists, midwives, and other health professionals for decades and those groups provided a well-organized and politically astute counterforce to the AMA. The clients and competitors of lawyers have no such experience. Consumer groups will have to work hard and quickly to build a coalition on this issue.

Good News and Bad for Generic Drug Users

There's good news and bad news on Capitol Hill for the millions of consumers who depend on low cost generic drugs to keep their health care costs under control.

On a positive note, Congressman Henry Waxman (D-CA) has introduced legislation to increase the number of drugs available in generic form. HR 3605 would establish a procedure for FDA approval of generic versions of brand name drugs approved after 1962. Currently, 125 post-1962 drugs are not produced as generics, including valium and important drugs to treat high blood pressure and arthritis. If approved, HR 3605 would mean a savings to consumers of about \$1 billion over the next 12 years. Older Americans, in particular, would benefit from this cost savings on new generic drugs because they use almost 25% of all prescription drugs.

Industry Wants to Write Its Own Prescription

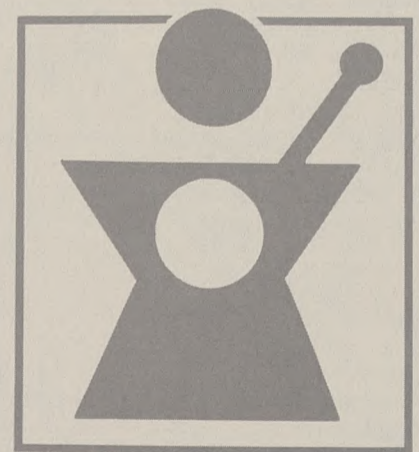
Unfortunately, much of the benefit from generic drugs will be lost if the drug industry is successful in its re-

newed campaign to pass drug patent extension legislation. As they did last Congress, major drug manufacturers

Legislation to extend the patent life of prescription drugs... will result in a transfer of millions of dollars from sick people to pharmaceutical manufacturers.

are seeking a law to give them up to seven additional years of patent life on prescription drugs.

Once again, a coalition of consumer senior citizen, union and generic manufacturing groups have joined together in opposition. According to David Greenberg, CFA Legislative Director, "The drug companies have never produced a shred of convincing data in support of this legislation, but it is clear



what the effects will be: higher drug prices, fewer generic equivalents, and a transfer of billions of dollars from sick people to pharmaceutical manufacturers."

The legislation is currently pending before the Senate and House Judiciary Committees, Greenberg noted, and the industry—led by the Pharmaceutical Manufacturers Association—can be expected to make a major push for action soon after the Labor Day recess.

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ENERGY ISSUES

Weatherization Bill Stalled in Senate

Congressional approval for fiscal 1984 weatherization funding has stalled on the floor of the Senate. The funds, part of the Interior Appropriations bill (HR 3363), may be held hostage by an attempt to bail out the Washington Public Power Supply System (WPPSS), which was forced to default in July on \$2.25 billion in bonds for power plant construction.

A rider to the Interior Appropriations bill offered by Senator James McClure (R-ID), would rescue the WPPSS. But just before the Senate adjourned for the August recess, Senator Howard Metzenbaum (D-OH) announced his intention to filibuster the McClure rider, leaving the fate of the entire appropriations bill up in the air.

The weatherization program provides grants to states to weatherize the homes of low income persons. Since its inception, the program has helped weatherize approximately one million homes, or seven percent of the estimated 14 million eligible households.

"Low-income families spend an enormous percentage of their income meeting their energy needs," said Glenn Nishimura, CFA Legislative Representative. "The weatherization program is more than a one-shot attempt to ease that burden. It has demonstrated results of up to 30 percent permanent energy savings."

A Good Program In Search of Funds

In 1983, despite Administration hostility to the program, Congress appropriated \$145 million for its continuation, and added \$100 million through Emergency Jobs legislation. At the discretion of each state, supplemental funds were available through transfer from the Low Income Energy Assistance Program, and through one-time oil overcharge monies returned to the states.

For fiscal 1984, the Administration has requested no monies for the program, but the House approved a \$243.5 million funding level. The Senate Interior Appropriations Subcommittee approved a funding level of \$145 million, which is the amount in the bill currently on the Senate floor.

If the Senate overcomes the problems created by the WPPSS amendment, the appropriations bill must still be sent to a House-Senate conference to resolve funding discrepancies. A likely alternative is that the Senate will not be able to overcome the current impasse, and funding for the weatherization program, as well as the Interior Department's appropriations will be thrown into a Continuing Resolution. In that case, the slate is wiped clean and anything can happen—ranging from zero funding for the weatherization program, to funding at the total \$245 million level approved in FY 1983.

CWIP Curbs Pass House Committee

by Glenn Nishimura, Legislative Representative

Consumers won an important early round victory when the House Energy and Commerce Committee approved a bill on July 19 to limit the inclusion of construction work in progress (CWIP) in electric utility rate bases. HR 555, the Construction Work in Progress Policy Act of 1983, would modify a regulation issued by the Federal Energy Regulatory Commission (FERC) that presently allows utilities to include 50 percent of the cost of financing the construction of new power plants in their wholesale rate base.

FERC Rule Under Fire

Consumer, environmental, labor and public power groups have levelled several criticisms at the FERC rule. One major concern is that when CWIP is included in the utility rate base, consumers are forced to pay a return on the cost of building power plants before any electricity is ever produced, and, in fact, even if no electricity is ever generated from the plant being financed.

In addition, by involving ratepayers in the financing of plant construction, CWIP makes ratepayers assume the risk of utility management's construction plans without giving them the benefits associated with those risks. CWIP also makes power plant construction more appealing to utilities to the detriment of other methods of meeting energy demand, such as conservation and alternative energy sources.

A further concern is that although the FERC rule only applies to wholesale power rates, it is clearly intended to encourage state utility commissions to allow CWIP in retail utility rates as well.

Tightening Requirements

HR 555 was introduced by Congressman Tom Harkin (D-IA) and was ushered through the House committee by Congressman Richard Ottinger (D-NY). The bill would call for a case-by-case determination of a utility's need for CWIP relief, requiring the utility to show it is in financial difficulty to qualify.

HR 555 is expected to reach the floor of the House this fall. A companion measure, S 1069, introduced by Senator John Chafee (R-RI) is expected to be considered by the Senate early this fall.

The bills are supported by a wide range of groups including Consumer Federation of America, American Public Power Association, National Rural Electric Cooperative Association, American Association of Retired Persons, Consumer/Labor Energy Coalition, Environmental Action, Natural Resources Defense Council, Sierra Club, Audubon Society, United Auto Workers, and the Steelworkers.

HEAT UP
CONGRESS.

ROLL BACK
NATURAL
GAS BILLS.

Sept. 24 & 25, 1983

Gas Protest
Days

AFL-CIO and Citizen/Labor Energy Coalition

Natural Gas Debate Heats Up In Congress

by Ann Lower, Energy Consultant

On September 24 and 25, just after Congress resumes consideration of natural gas policy bills, tens of thousands of consumers, trade unionists, senior citizens, and farmers around the country will participate on Saturday and Sunday in Gas Protest Days. The consumer protest, organized by the Citizen/Labor Energy Coalition (CLEC), is designed to put the heat on Congress to roll back natural gas prices.

Extending the debate to the floor of both houses of Congress could not come at a better time. After two years of maneuvering to lift controls on old gas, a category of gas that would remain controlled under present law, producers and the Administration now have in place legislative vehicles in both houses to do just that.

Surrogate Decontrol

Supporters of the Senate Energy Committee bill are quick to point out that the legislation is not an immediate decontrol bill. It phases in the decontrol of old gas by ramping up the price of old gas over a 36 month period, while ramping down the price of new gas over a 14 month period.

Supporters of the House Fossil Fuels Subcommittee bill say that their bill is not a decontrol bill at all. Bristling recently at the suggestion that John Dingell, Chairman of the House Energy Committee, might reject the subcommittee bill because it decontrols old gas, Tom Corcoran (R-IL) said, "Mr. Dingell has said decontrol of flowing old gas would pass over his dead body. This bill does not decontrol old gas, so there would be no need for a mortician on his behalf."

Based on the erroneous Shell study that argues that a price above the market clearing level will produce approximately 52 trillion cubic feet of new old gas, what the subcommittee bill does is to offer a decontrolled price for enhanced recovery projects and infill drilling in old fields. The problem is, almost any old gas qualifies.

Regardless of what you color it, consumers will pay over the lifetime of our old gas supply—about 8 years—\$65 billion for the same supply of gas under both committee bills that they would have paid \$19 billion for under the present law. Moreover, as the price of old gas is bid up by the top 20 natural gas producers who own the lion's share of it, new gas prices in the short-run will fall, driving many of the small producers who drill the greater share of new gas out of business.

The Prognosis

Whether Congress can pass a natural gas bill this year or next depends largely on whether the House Energy Committee, chaired by Dingell, clears legislation. Markup in the House full committee is scheduled to begin in late September or early October.

Several factors are working in favor of passage:

Phase-ins and incentive pricing for special projects sound harmless to many members; vehicles for some type of decontrol are in place; and the Reagan Administration will be out in full force.

On the other hand, the legislation has advanced by the slimmest of margins—by one vote in both the House and Senate committees; small producer support is waning because both bills favor large producers; pipeline and distribution companies remain opposed; and future Congressional action will be influenced by higher home heating bills this fall, a point consumers can help drive home in the upcoming Gas Protest Days.

(For information on Gas Protest Days in your area, contact the Washington office of Citizen/Labor Energy Coalition at (202) 857-5153 or the national CLEC office in Chicago (312) 975-3680.)

The Levitas Amendment—Dangerous Our Health

by David Greenberg, Legislative Director

The present Congress has seen few, if any, serious attempts to alter the influence of special interest groups on the legislative process. Enter Congressman Elliot Levitas with an idea that will do just that. The only problem with the Levitas amendment is that it would move special interest power in the wrong direction—to a position of even greater influence.

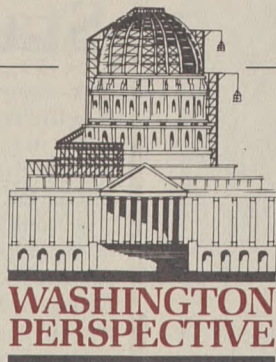
You see, the Congressman wants to give the manufacturers of millions of consumer products a new way to escape the safety standards of the Consumer Product Safety Commission (CPSC). His idea is simple: to make Congress a special interest court of appeals.

Here's the proposal, which comes before a House-Senate Conference Committee later this month. No CPSC rule or regulation could become effective unless both houses of Congress voted to approve it and the President signed it into law. So, the eleven-year-old Commission would cease to be independent, at great cost to the public. Based on conservative estimates compiled from emergency room reports, the CPSC's mandatory regulations alone prevent 500 deaths, 1700 cancers and 250,000 injuries each year.

Playing Politics with Lives

The Commission's overall impact on safety, in fact, appears to be much greater. Household accident figures of the National Safety Council show a 17 percentage point reduction in injury rates and a 14 percentage point reduction in death rates for comparable nine-year periods before and after the CPSC was established. Yet the Levitas Amendment would reduce the Commission to little more than an advisory body. The real action would take place in the halls of Congress.

The prospects for safety under such a system are grim. Consider the fate of the FTC Used Car Rule and the bank withholding legislation, two prominent issues where reasoned debate was drowned out by campaign contributions and high-powered lobbyists. It is hard to believe that the highly controversial issues within the CPSC's mandate—for example, toxic chemicals like asbestos and formaldehyde in consumer products—would fare any better. And if facts and figures about safety take a back seat to the dollars and cents of campaign contributions, why should the Commission spend money on more doctors, scientists and engineers? It would be a much better idea to beef up the CPSC Congressional relations staff in order to stay closer to political currents on Capitol Hill.



While imperfect, the procedures of agencies like the CPSC are designed to allow specific and complex judgments to be made. Unlike the legislative process, agency procedures require: advance notice of Commission action; full and open hearing of the views of the public and affected industry; decisions based on substantial evidence; and judicial rejection of arbitrary and capricious regulations.

Levitas' proposed shift of the CPSC's power to Congress won't just eliminate the Commission's effective authority to issue mandatory standards. It will signal an end to the CPSC's leverage on industry self-regulation as well. Presently, the threat of mandatory Commission regulation often encourages industries to get serious about policing themselves. The CPSC has used this approach successfully with the toy, chain saw, upholstered furniture and wood products industries. But without the power of mandatory standards held in reserve, the motivation for voluntary action dissipates.

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The Clock Keeps Ticking

Even under the Levitas Amendment, some of the CPSC safety standards may be able to survive the legislative process, but the additional time involved will cost Americans a large number of unnecessary injuries and deaths.

A year is a short time on the legislative calendar, yet a one-year delay in the Commission's ban of certain products containing asbestos, benzene and Tris would have meant an additional 1700 cancers. A similar delay of the CPSC's lawn mower safety rule would have caused almost 60,000 preventable injuries.

In the end, the Levitas Amendment presents a classic example of how in modern government, as in medieval medicine, the cure is often worse than the disease. But what is saddest about the proposal is that it seeks to remedy a problem that simply does not exist. With or without the legislative veto, Congress has at its disposal a diverse arsenal to wage war against regulatory agencies when it so chooses—reauthorization, appropriations riders and oversight hearings to name just three. Moreover, Congress has always had the power to pass and send to the President legislation overturning any agency regulation that it finds offensive. The Congress can save hundreds of lives and hundreds of thousands of injuries by rejecting the Levitas Amendment. Not to do so, will prove dangerous both to our health and to our system of government.

Product Liability Bill Faces Close Senate Vote

For nearly a decade, manufacturers, insurance companies, wholesalers and retailers have sought federal product liability legislation. The numbers on the bills have changed, but the basic thrust remains the same: to preempt state law with national standards and to reverse progressive trends which protect the victims of product injuries.

This year's version—S 44, authored by Senator Robert Kasten (R-WI)—is no exception. Not unexpectedly, the bill has created near universal opposition among consumer, labor, health, victim, trial lawyer and women's groups. Equally predictable, the business community has embraced S 44 wholeheartedly.

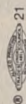
S 44 was supposed to be different from all past efforts in one critical respect, however. The smart political money said it had a real chance to pass. After all, it is an exact replica of the bill (S 2631) that passed the Senate Commerce Committee by a 9-1 margin in September 1982, so hearings had already been held, lobbyists knew the staffers of Commerce Committee Senators and a committee report was written and printed. In other words, all essential groundwork appeared to have been laid for prompt Senate floor action in early 1983.

But it didn't happen. This year's hearings brought out continuing serious criticism from prominent state supreme court judges, law professors and state legislators. The Today Show, Good Morning America, and the MacNeil-Lehrer Report coverage illustrated the public relations time bomb the bill could be for members of Congress. And bickering within lower echelons of the Reagan Administration kept the White House from speaking early and forcefully in support of the specifics of S 44.

After many delays, the Kasten bill is scheduled for mark-up in late September, and the vote is expected to be close. Many key Senators—Packwood, Danforth, Inouye, Long and Lautenberg—have not made their positions public. And a late development has caused more confusion among proponents of S 44. Senator Slade Gorton (R-WA), a cosponsor of the bill, directed his staff to circulate a short substitute bill. The Gorton draft still preempts state law but attempts to preserve many of the hard fought gains victims have achieved in the last few years. It may well attract swing Senators who favor uniform national standards but view the Kasten bill as unfair.

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