

courant.com/news/local/hc-greenhousegas.artsep13,0,6320568.story

Courant.com

Measures To Curb Emissions Backed

Ruling A Boost For Connecticut's Plan

By MICHAEL REGAN

Courant Staff Writer

September 13, 2007

In a crucial ruling on the global warming issue, a federal judge said Wednesday that regulations adopted by Connecticut and 12 other states to curb greenhouse gas emissions from cars and light trucks don't conflict with federal law.

Judge William K. Sessions III, of U.S. District Court in Burlington, Vt., ruled against the auto industry on every point in its attempt to block implementation of the rules, which are aimed at reducing global warming.

Although witnesses for both the auto industry and proponents of the regulations testified that the rules would have only a tiny impact on global temperatures, Sessions said that was no reason not to implement them.

"The fact that global warming will not be solved by changes in any one industry or by regulation of any one source of emissions in no way undercuts the vital nature of the problem or the validity of partial responses," he wrote. "Rather, it points to the necessity of responses, however incomplete when viewed individually, on any number of fronts."

Sessions discounted the automakers' claims that complying with the regulations would be technologically and economically unfeasible. "It is improbable that an industry that prides itself on its modernity, flexibility and innovativeness will be unable to meet the requirements of the regulation," he wrote.

Wednesday's decision was the second federal court victory in recent months for states and environmental groups trying to use federal anti-pollution laws to reduce emissions of carbon dioxide and other gases that cause global warming. In April, the U.S. Supreme Court ruled that the Environmental Protection Agency has a duty to consider whether the gases are harmful air pollutants.

It is unlikely to be the last word, however. Sessions' ruling could be appealed. Similar lawsuits are pending in two other states, and the EPA is now weighing approval of the regulations that were the subject of Wednesday's decision.

The case before Sessions involved regulations established in California in 2004 and later adopted by 12 other states, including all of New England except New Hampshire. The regulations would limit greenhouse gas emissions from cars, SUVs and light trucks beginning with the 2009 model year.

The rules were established under a provision of the federal Clean Air Act that allows California to set more stringent standards for vehicle tailpipe emissions, subject to EPA approval, and permits other states to adopt the California standards.

Automakers, however, sued California, Vermont and Rhode Island to block implementation of the rules, claiming they violate another set of federal laws concerning vehicle mileage. The Vermont case was the first to go to trial, with several environmental groups joining the state as defendants.

The manufacturers argued that the rules amount to mileage standards, which states cannot impose under federal law. That's because emission of carbon dioxide, the principal greenhouse gas, is directly related to the amount of gasoline burned. To reduce carbon dioxide emissions, therefore, manufacturers would have to increase vehicle mileage.

**TRAIN FOR A
NEW CAREER**

- Medical Assistant
- Health Claims Specialist
- Paralegal
- Computer Network Technician
- Massage Therapy

**Branford Hall
Career Institute**
Day & Evening Classes
Windsor • Southington
Branford • Springfield
[Click here for more information](#)

Even if the regulations aren't explicitly pre-empted by federal law, industry lawyers argued, they are contrary to the intent of the law - to spare manufacturers the burden of meeting different mileage standards in different states. Their witnesses said that the industry lacks the technology to meet the requirements, that compliance would add about \$6,000 to the cost of a vehicle, and that automakers would be forced to stop selling most of their products in states that adopt the rules.

Sessions rejected the claim that the regulations are really mileage rules. Improving mileage is one way to reduce emissions, he said, but not the only way: Carmakers can get credit for improving air-conditioner efficiency, for example. Nor is better mileage alone sufficient: The California standards also require calculation of the emissions caused by the production of alternative fuels, such as ethanol, propane or natural gas.

And Sessions said he was not persuaded by witnesses who testified that the industry would be unable to comply with the regulations, saying they made overly conservative assumptions about the availability of technology and alternative fuels. Although witnesses testified that alternative fuels would not help automakers meet the regulations, Sessions wrote, top industry executives have publicly touted the use of those fuels as part of their strategies to reduce greenhouse gases. Similarly, he wrote, some technologies dismissed by witnesses as not practical are already in use.

In response to Wednesday's ruling, the lead plaintiff, the Alliance of Automobile Manufacturers, issued a brief statement in the name of president and CEO Dave McCurdy reiterating the Alliance's position and saying it is "studying the decision and considering the options, including an appeal."

The winners were more voluble. Massachusetts lawyer Matt Pawa, who represented several of the intervening environmental organizations, said Sessions had "given extraordinarily thorough consideration to all of the automakers' factual and legal arguments and rejected virtually all of them."

"The automakers have now had their day in court and they've lost," he said. "This a historic win for the planet."

Contact Michael Regan at mregan@courant.com.

Copyright © 2007, [The Hartford Courant](#)