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Judge Rules Vermont Can Set Auto-Emissions Standards

By MIKE SPECTOR

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A federal district court judge said Vermont can adopt its own stringent regulations on tailpipe emissions, saddling auto makers with another battlefield to confront in the nation's ongoing debate over improving vehicle efficiency.

The ruling, issued Wednesday by District Court Judge William K. Sessions III, means Vermont will be allowed to adopt regulations similar to aggressive rules adopted by California. The federal Clean Air Act allows California to adopt more aggressive emissions rules than the federal government.

The state emissions rules would force auto makers to achieve an average of more than 40 miles a gallon across their fleets of cars and trucks as soon as 2014. Regulating tailpipe emissions effectively forces auto makers to improve mileage since greenhouse gases are produced when vehicles burn fossil fuels such as gasoline.

The ruling comes on the heels of the Supreme Court's decision earlier this year that the Environmental Protection Agency can regulate tailpipe emissions under authority of the Clean Air Act. The order also comes amid a contentious political debate in Washington over increasing federal mileage rules, known as Corporate Average Fuel Economy, or CAFE.

Amid concerns over foreign-oil dependence, high fuel prices and global warming, Congress is mulling legislation that would force auto makers to achieve an average of 35 miles per gallon for their fleets of cars and trucks over the next decade or so - as much as a 40% increase over current standards but less aggressive than the rules states are pursuing. Meanwhile, the Bush administration is fast-tracking similar new rules for the end of this year.

Judge Sessions said the auto industry failed to prove Vermont's standards were "sufficiently draconian that they essentially usurp [the National Highway Traffic

Administration's] prerogative to set fuel-economy standards."

Lawyers representing Detroit's Big Three auto makers and Japan's **Toyota Motor Corp.**, among others, had argued that only the federal government has the authority to regulate fuel economy. Auto makers fear different mileage rules in separate states will wreak havoc with their product plans. The industry wants one blanket rule to follow and said it is considering an appeal.

"Federal law is designed to ensure a consistent fuel-economy program across the country," said Dave McCurdy, head of the Alliance of Automobile Manufacturers, the industry's main Washington lobbying group. "Auto makers support improving fuel-economy standards nationally, rather than piecemeal and will continue to work with Congress, NHTSA and EPA to reduce our oil dependence while increasing fuel economy."

California has asked the EPA for a waiver allowing it to set its own rules specifically on tailpipe emissions. Other states are hoping to follow California's lead in getting a waiver to set stricter standards -- all told, about a third of the nation's auto market. Governors of those states issued a letter Wednesday to the chief executives of the top six auto makers by sales in the U.S., calling on them to kick up innovation plans and stop blocking regulations through litigation.

Auto makers have sued California to prevent officials there from setting aggressive emissions rules, just as they unsuccessfully did in Vermont. The California case is still pending. The Vermont ruling would appear to provide momentum for California officials, though a judge there could decide that specific case differently.

Matt Pawa, a lawyer for environmental groups that joined Vermont in defending against the industry's lawsuit, said Judge Session's ruling represented a "great victory for global warming, Vermont, the planet, California and the auto industry."

He said the ruling would pave the way for "wonderful vehicles that consumers really want that both get really great gas mileage and don't damage the planet."

Auto makers consistently argue that pickup trucks and sport-utility vehicles make up half of U.S. industry sales and that overly aggressive mileage rules would force them to build smaller vehicles that consumers won't buy. Detroit's companies -- **General Motors Corp.**, **Ford Motor Co.** and Chrysler LLC -- in particular fear the cost of retooling plants to comply with new regulations amid losses in their North American operations. Auto makers also contend they're committed to alternative-fuel technologies -- GM vows to mass produce an electric-powered car by around the end of the decade -- but need time to make them commercially viable.

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