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Student Edition

California Education and the Environment Initiative

This Land Is Our Land

California Education and the Environment Initiative

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California Environmental Protection Agency
California Natural Resources Agency
Office of the Secretary of Education
California State Board of Education
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California Integrated Waste Management Board

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Key Partners:

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Court Panel Questions School Ban on Phones

By Anemona Hartocollis
The New York Times, *February 7, 2008*
http://www.nytimes.com/2008/02/07/nyregion/07cell.html?fta=y

Most of the judges on a state appellate court panel seemed to be sympathetic on Wednesday to arguments by parents that a ban on cellphones in New York City schools trampled on their right to make decisions about the safety of their children.

During a hearing in Manhattan on the constitutionality of the ban, the five judges indicated that they were looking for a compromise policy.

Teen texting at school

They asked lawyers for the city and the parents whether it would make sense for children to be able to bring phones into a school building as long as the phones were turned off, and they wondered aloud whether the school's chancellor was being insensitive to the wishes of parents.

One justice, David B. Saxe, remarked that if the chancellor, Joel I. Klein, had been more directly accountable to parents—instead of the mayor—he would probably be out of a job by now.

"I suspect that in a smaller school district, if the school superintendent tried such a ban, they'd probably fire the whole school board," Justice Saxe said. But, he added, parents "can't easily fire the chancellor."

Even the judge who seemed most inclined to support the ban, Richard T. Andrias, asked why the school system had rejected a suggestion by the teachers' union to allow the principal of each school to make the decision about cellphones.

In that way, Justice Andrias said, a principal could decide, "My school's a nice quiet school," and permit cellphones.

The city's lawyer, Alan G. Krams, objected that allowing principals to decide would be unfair to law-abiding students at troubled schools.

The city has argued that cellphones in schools are disruptive, because students use them to talk, send text messages and take pictures during school hours. Parents say their children should be able to phone home immediately in an emergency.

Judge's bench

A lower-court judge, Lewis Bart Stone of State Supreme Court in Manhattan, upheld the cellphone ban in May, saying that it was "rational" and that neither the federal nor state Constitution guaranteed a "right to bear cellphones." The parents then appealed to the Appellate Division of State Supreme Court.

Norman Siegel, a lawyer for the parents, told the appellate judges on Wednesday that the issue was not the "right to bear cellphones," but the constitutional right of parents to make decisions about the well-being of their children.

He cited a court ruling in the 1990s striking down a plan to distribute condoms in New York City schools without parental permission. In that decision, Mr. Siegel said, the court ruled that parents had a right to make decisions concerning the "custody, care and control" of their children.

Justice Saxe said the parental interest in teaching children about sex "sounds like it's far more intimate," and therefore, perhaps, more compelling.

Justice Andrias said that when his children were in school, they did not have cellphones, and he was not able to communicate with them all day. Nonetheless, he said, he was never investigated for child neglect.

David Leichtman, another lawyer for the parents, responded that the situation had changed after 9/11.

Mr. Leichtman said the cellphone ban was overly broad. He compared it to a 1969 case on Long Island, in which the Hicksville school district wanted to stop girls from wearing hot pants and bell-bottoms to school, and so barred them from wearing any style of pants. The ban was struck down in court.

Justice Andrias asked whether permitting cellphones would lead to children's being allowed to carry hand-held computers in schools.

"Do I have a right to check my computer device between classes?" he asked.

Mr. Siegel replied: "Good question. I think that's where we're going."

Judge's gavel

So, You Want to Own a Gas Station

In a “car culture” like California’s, you might be thinking about owning a gas station. If so, you should be aware of the costs and responsibility involved in owning and running—even selling—a gas station in our state.

Buying a franchise will cost you about $100,000. As the owner, every year you will need to pay fees, called royalties, amounting to about 5% of your sales, to the “parent” company. However, the operational costs of running a station are larger. A big expense is monitoring the underground storage tanks (USTs) that hold the gasoline for sale at the pump. Complex laws in place today require gas station owners to install devices that detect leaks and to hire experts to take and test soil and water samples in case of a leak. These costs are somewhat offset by government assistance. State and federal taxes included in the price of gas at the pump—several cents per gallon total—go into a cleanup fund that assists gas station owners and operators with the cost of cleaning up a leaking UST. But these laws and support did not always exist.

Gas station

Increased knowledge of the gas people use to power their cars, trucks, lawnmowers, and other machinery has changed the way gas stations do business.

Other Costs

Gas stations in California sell more than 14 billion gallons each year. More than 100,000 USTs store gas for California's more than 9,000 retail gas stations. Each of these gas stations goes through a complex permitting process to obtain permission to install, stop using, or remove an underground storage tank. The reason is this: If even one gallon of gas leaks into an underground aquifer, it makes more than a million gallons of water undrinkable. And the cleanup costs more than a million dollars.

In 1983, California became one of the first states to pass laws regulating how gas stations use and maintain their USTs. One year later, the federal government passed laws allowing the United States Environmental Protection Agency (U.S. EPA) to oversee and enforce UST regulations. Since passage of these state and federal UST regulations, more than a million leaking tanks have been replaced or decommissioned, and more than 300,000 leaks have been cleaned up.

The effort to ensure that USTs are "leakproof" has been underway since the mid-1980s. At first, the goal was to keep any UST from leaking more than 0.05 gallons per hour. If the leakage was less, the government considered the UST fine to use. Then, in the 1990s, several cases of methyl-tertiary-butyl-ether (MTBE) contamination brought the U.S. EPA under fire. At the end of the 1980s, gasoline sold in California contained the additive MTBE. MTBE reduces certain emissions and helps improve air quality in urban areas. But it is toxic to humans and can escape out of a UST as a

Pumping gas

vapor, passing into the soil and surrounding water through tiny pores in the pipes, gaskets, and fittings of a UST. Only a few parts per billion of MTBE will make water undrinkable. In 2003, California passed a law that required USTs to be vapor-tight as well as liquid-tight. In 2004, California banned the use of MTBE altogether.

Gas prices, 2008

Working Together

California has a web of local, regional, and state agencies that regulate what happens at gas stations. These agencies monitor the purchase, operation, and removal of USTs, among other things. The Department of Food and Agriculture's Division of Measurement Standards oversees gasoline quality and pump accuracy. At the local level, the Department of Public Works (DPW) is the primary point of contact for UST oversight. DPW works with other city and county officials, such as the fire department and the city's building and safety office. DPW keeps track of who owns and operates the gas stations in the area. The state's lead regulatory agency is the State Water Resources Control Board, a division of the California Environmental Protection Agency (Cal/EPA). The Board gives authority to regional boards and local agencies to monitor the USTs in their areas.

The rules that gas station owners and operators must follow are detailed in a 105-page document that is part of the California Code of Regulations. The regulations cover everything from specifying how the tanks, pumps, and pipes should be constructed to monitoring, repair, and reporting requirements.

A gas station owner who wants to close the station and use the property for another purpose must also deal with many legal requirements. The process to close or sell a gas station is as complex as the process for opening one. Gas station owners must pay to safely clean up the area and remove the USTs, or demonstrate that removing the USTs is not feasible before they can receive permission to close the gas station and leave the tanks in site (underground). On top of all this, the application for closure includes extensive soil and groundwater sampling.

Gas pumps

Owners also must apply for permits from the local or county fire department, the Department of Public Works Building and Safety Division, and the Air Quality Management District to conduct these tests, as well as to close any station or sell any gas station property.

Thinking It Through

Still thinking about going into the gas station business? Since fuel always seems to be in demand, you might think profits would be more than enough to cover the cost of doing business and following the laws. But the truth is, most station owners keep only a few cents profit for every gallon of gas sold. They tend to make more on the snack items they sell than the gas.

As the complexity of owning a gas station has increased over the past two decades, fewer independent stations have remained in operation. Larger stations, leased to operators but owned by the oil companies, have taken their place. In Los Angeles, the total number of gas stations had decreased by 50% by 1990, as government regulation of gas stations began in earnest. Ten years later, the number of gas stations had decreased by half again. At the remaining gas stations, the number of nozzles per station has jumped from 7 to 12.

Automated pumps and payment options mean fewer employees to operate the station and serve the customer. Although fewer in number, the remaining gas stations are managing to keep up with the public's increasing demand for fuel and the need to safeguard the environment.

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