



JUST THE FACTS

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Consumers in the Middle with Proscribed Mandates on Energy Choice

States across the country are in the throes of determining future winners and losers in the energy marketplace, considering and enacting measures that restrict consumer choice and removing the word “free” from “free market” that most Americans take for granted. The landscape of legislative, administrative and judicial actions on these issues continues to evolve, leaving end users uncertain of how to plan the purchase of items capable of using different types of energy.

Here is a look at how the pendulum is swinging right now on natural gas-fueled stoves, gasoline-powered lawn equipment and automobiles.

Natural Gas Stoves

The efforts to enact moratoriums on new natural gas stoves first emerged in 2019 with the passage of a ban in Berkeley, California that was later mimicked or served as a model for almost 100 other local governments, including Seattle and New York City. In April, a U.S. Circuit Court of Appeals in San Francisco agreed with the California Restaurant Association’s position that the ordinance violates the U.S. government’s authority to establish energy-efficiency requirements for appliances.

April’s 3-0 appeals court decision was written narrowly and did not apply to the language of every municipal ordinance impacting natural gas stoves. A potential rehearing of the case before a larger panel of 11 appellate court judges may follow sometime in the near future.

The state of other moratorium proposals are ongoing. As of early this year, 73 cities and counties in California have adopted building codes to require new residential and commercial buildings to go all-electric. An additional 26 cities and three states (Colorado, Maryland and Washington) have building codes currently in place or scheduled to prevent natural gas stoves in new construction.

In Pennsylvania, the state Senate passed a bill in March by a 40-9 vote to prevent municipal governments from enacting restrictions on consumers’ energy choices. The legislation has yet to be considered in the House.

Finally, the U.S. House of Representatives also waded into the stove restriction waters in June when it passed the Gas Stove Protection and Freedom Act to prevent the federal government from banning natural gas-fired stoves, with 25 Democrats voting with the Republican majority. The bill has yet to be considered in the Senate.

Lawn Maintenance Equipment

Not surprisingly, it was California that opened the bidding for limiting consumers’ choices for doing yard work. Legislation enacted in 2021 directed the California Air Resources Board to develop regulations to ban the sale of gasoline-powered lawnmowers, hand-held tools and any new gas-powered equipment using small off-road engines by 2024.

Since that time, it is estimated that more than 100 municipalities across the country have approved ordinances that include some type of ban on gasoline-powered equipment, and a number of states, including Illinois, New Jersey and New York have legislation under consideration to stop gasoline-powered equipment. A New York bill, if enacted, goes so far as to ban the use of all gas-powered lawnmowers in the state four years after the law’s effective date. In Pennsylvania, State Rep. Melissa Shusterman (D-Chester County) initiated the debate over the issue with the introduction of a bill last month to establish a “zero emissions task force” to develop a plan to phase out gas-powered lawn equipment in the Commonwealth.

The National Association of Landscape Professionals and similar state organizations are actively opposing the bans, primarily with concerns about the financial impact on small landscaping contractors, the equipment efficiency and battery performance needed for an entire day of work.

Automobiles

As of August 2023, nine states have announced plans to stop the sale of all new gasoline-powered cars and trucks starting in 2035, including California, Connecticut, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Oregon and Washington. Four additional states – Delaware, New Mexico, Vermont and Virginia – do not seem far behind in joining them. These planned moratoriums have generally not been put before legislative bodies for approval, being advanced instead by governors and environmental regulators.

The Biden Administration's Environmental Protection Agency proposed a different electric vehicle (EV) approach to the states' mandates in April 2023, setting strict new tailpipe emissions limits on new vehicles that would require about 65 percent of all new vehicles sold in the U.S. by 2023 to be electric powered. The proposal could be finalized as early as next year, and would dramatically step up limits on

greenhouse gas emissions between 2027-2032, requiring the manufacture of far more electric vehicles than the auto industry agreed to less than two years ago.

Depending on how automakers comply, EPA's projections anticipate that at least 60% of new passenger vehicles sold in the U.S. would be electric by 2030, increasing up to 67% by 2032. In the case of larger medium-duty trucks, EPA expects 46% of new truck sales in 2023 will operate on electricity.

The issues still to be addressed to meet these ambitious goals are almost too many to list: the affordability of owning EVs (the average cost of an EV in 2023 is almost \$58,000, with the installation of home charging units ranging from \$1,000-\$2,500), the range and charging efficiency of the vehicles, the challenges of owning and operating EVs in rural areas, the installation of charging infrastructure in those same areas and safety issues identified when lithium-ion batteries exposed to salt water after Hurricane Idalia created stubborn automobile fires in late August. Future production capability is another open question, with EVs accounting for three percent of autos built in 2021 and seven percent in 2023.

The Facts

The approaches or circumstances that restrict consumers' current and future energy choices vary considerably. Some are forced involuntarily by actions such regulatory roadblocks to new infrastructure. Consolidated Edison has had a moratorium on new natural gas connections in its Westchester County service area since 2019 due to a lack of pipeline capacity. Others are legislated by state and local government decisions, as summarized above. The long-term impacts of these actions on consumers are still to be determined, but reducing choice and competition commonly results in higher prices for end users. As the U.S. confronts solutions to adapt its energy distribution systems to reach dispersed sources, new challenges impacting reliable access could also emerge in some areas of the country. These issues make up only part of the nation's future energy equation, and they can be best addressed with integrated solutions.



115 VIP Drive, Suite 210
Northridge Office Plaza II
Wexford, PA 15090-7906
(724) 933-7306
www.pioga.org | info@pioga.org