Syllabus – Gasoline: A Legal History
Professor Devlin/Spring 2008

Meets Tuesday and Thursday 9:00-10:30 a.m.
Room

No Casebook – Assigned Readings shown with classes
Recommended Background Reading
The Prize – Daniel Yergin

The course will examine the history of gasoline as a transportation fuel and over the last 125 years and its ubiquitous role in the development of law in the United States, judicial, legislative, and administrative (and political). The course is designed to address legal issues involved in the production, distribution, and marketing of gasoline and related fuels, consider ethical and professional questions related to the subject matter, and to integrate the subject matter with the analytical and practical skills required in the practice of law.

The breadth of the issues to be explored is ambitious and multidisciplinary, including such varied legal topics as environment, antitrust, trademarks, government price, rationing, and other controls, pricing, franchising, commodities futures, advertising, and legislative and regulatory policy. We will delve into such issues as oil company divestitures and mergers and their effects on gasoline distribution and prices, franchise relationships, lead additization, underground storage tanks, price gouging, below-cost selling, and the use of discount for cash and promotions.

The course will conclude with consideration of the involvement of the U.S. legal system in the ultimate question – “What comes after gasoline?” We will address various renewable and alternative transportation fuels in light of legislative and administrative promotional and mandating action.
There will be no tests or casebook. There will be assigned readings of decisions, legislation, government reports, industry analyses, and articles, shown below with the related class schedule. Additional readings will be assigned during the semester.

Class participation will be considered as permitted – i.e., an added .5 to the graded mark on papers.

One book that is suggested for general background reading is Daniel Yergin, *The Prize: The Epic Quest for Oil, Money, and Power* (Simon & Schuster (1991) (available, I believe, in paperback.) References to *The Prize* are listed with other readings below.

There will be no final exam. Students will choose topics for one paper from a list of topics available in the first two weeks of class. Other germane topics of the student’s choice will be considered as appropriate. Papers should be a minimum of about 20-25 pages (c. 5,000+ words\ in length, double-spaced), not including notes (preferably footnotes, but end-notes will be acceptable). The papers will be marked on the basis of demonstrated research (footnotes demonstrate scholarship), logical presentation and argumentation, and legal writing style. Creative titles and approaches are encouraged. Papers will be due on April 24 in both hard copy and electronically to my e-mail address which will be provided in class.

**January 15-17**

**Overview**
The Beginnings of Gasoline and the Standard Oil Breakup
Early Development of automotive transport fuels
Readings:
Lead Poisoning: A Historical Perspective at http://www.epa.gov/history/topics/perspect/lead.htm
8,500 Years of Lead... 79 Years of Leaded Gasoline by Jamie Lincoln Kitman at http://www.thenation.com/doc/20000320/timeline
*Ethyl War* by William Kovarik at http://www.runet.edu/~wkovarik/ethylwar/
[the Internet references are for perusal and reference]

Sherman Act, 15 U.S.C. §§ 1 and 2;
*Standard Oil Co. (New Jersey) v. U.S.*, 221 U.S. 1 (1911);
January 22-24

Trademarks and Brand Development – Introduction and Overview

January 24, 29, and 31

Gasoline Distribution and Marketing - From the Teens into the 1930s
Readings: U.S. v. Socony-Vacuum Oil Co., 310 U.S. 150 (1940);
The Prize, Chapter 11 – “From Shortage to Surplus: The Age of Gasoline”

February 5

WW II and rationing
Emerging from WW II into “The Hydrocarbon Age”¹
Readings: The Prize, Part IV

February 7

The late 1940s into the 1960s
Standard Stations and Distribution Expansion in the Post-World War II Era
Robinson-Patman Act Issues
Robinson-Patman Act, 15 U.S.C. §§ 13(a)-(f)
F.T.C. v. Sun Oil Co., 371 U.S. 505 (1963),
Simpson v. Union Oil Co., 377 U.S. 13 (1964)

February 12

Overview - The 1970s
OPEC
Price and Allocation Controls

¹ The phrase is borrowed from Part IV of The Prize.
**February 14***

Price and Allocation Controls

**February 19 and 21***

Carter, COWP, and the Iranian situation  
Decontrol  
CAFÉ Standards, etc  
Strategic Petroleum Reserves  
Readings: To be assigned

**February 26**

Clean Air Act Amendments of 1970 and Gasohol  
Octane Posting  

**February 28 – March 4**

State Legislation – Dealer Day in Court Statutes  
Petroleum Marketing Practices Act  

Divorcement and Divestiture  
Readings: *Exxon Corp. v. Governor of Maryland*, 437 U.S. 117 (1978)

**March 6**

Overview - 1980s to present  
Commodities trading in crude, gasoline, and heating oil  
Readings: To be assigned
**March 11 and 13**

LUST  
MTBE  

**March 18 and 20**

Spring Break – No Classes

**March 25**

Gasoline Distribution and the Antitrust Laws  

**March 27 and April 1**

No classes – to be rescheduled

**April 3**

Pricing and Below Cost Selling & Price Gouging Laws  
FTC and DOJ investigations  
Readings: on below cost selling, see Florida Motor Fuel Marketing Practices Act, Florida Statutes, Chapter 526, § 526.301 et seq.; on price gouging, see Fla. Stat. § 501.160 and Code of Ala. § 8-31-3; see proposed

April 8

Clean Air Act Amendments - RFG and Boutique Fuels
Readings: To be assigned

April 10

Unocal and RFG

April 15 and 17

Mergers at the Millennium – FTC and GAO studies
Readings:

April 22, 24 and 29

Fuels in the 21st Century
  Future Fuels
  Brazil as Paradigm

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