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Trial of the tailpipe opens

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California's greenhouse gas emissions limits went on trial Tuesday in a Burlington courtroom, where automakers opened with an apocalyptic picture of billion-dollar industry losses and consumers unable to buy the Chevy Tahoe or Malibu of their choice.

The trial's first witness, General Motors executive Alan Weversted, testified that trying to build cars and trucks to meet the emissions limits would cost his company \$25 billion over 10 years -- and the vehicles still would fail to comply.

By 2016, General Motors could not legally sell any of its cars and trucks in Vermont, California or any other state that adopts California's limits, he said.

"It would be a financial disaster for GM," he said.

Lawyers defending Vermont's adoption of the California rules countered that automakers have the technology to meet those standards without significant disruption. They cited automakers' prediction of financial catastrophe on previous occasions -- predictions that did not come true.

"This case is one of optimism versus pessimism," Vermont Assistant Attorney General Scott Kline said in his opening argument. "Evidence will show manufacturers can comply with the greenhouse gas emissions limits without significant changes in their product plans."

California adopted limits on vehicle greenhouse-gas emissions in 2004 as a strategy to combat global warming. Ten other states, including Vermont, have copied the California standards, which take effect in 2009 and set increasingly strict limits through 2016.

Automakers' central legal argument is that the regulations are illegal because they set fuel economy standards that are the sole prerogative of the federal government. While the regulations limit carbon dioxide emissions, the only practical way to reduce those emissions is to burn less gasoline, the automakers say.

By 2016, the carbon emissions limits would require automobiles to get 43.7 miles per gallon and light trucks to achieve 26.9 miles to a gallon.

'So many lawyers'

U.S. District Judge William Sessions' fifth-floor courtroom, in a state with fewer cars than any other, provided an unexpected setting for the first-in-the-nation challenge of the California rules.

Nearly three dozen auto industry lawyers, executives and experts crowded all six rows on the left side of

the courtroom. Eight attorneys representing Vermont, New York and their environmental allies crammed the defense table.

"I've never seen so many lawyers in one place," said Trevor Squirrell, an environmental studies graduate student from Underhill Center who dropped in to listen to opening arguments.

The trial pits three Vermont auto dealers, two auto industry trade groups and two automakers -- General Motors and DaimlerChrysler -- against the states of Vermont and New York and environmental groups including the Conservation Law Foundation, Vermont Public Interest Research Group and the Sierra Club.

Auto industry lawyer Andrew Clubok spoke first Tuesday, in an hourlong opening argument that attacked the California/Vermont emissions limits on virtually every ground, from their legality and technical feasibility to their effect on global warming.

"This case is not about global warming," he told the court. "It is utterly irrelevant" to the case.

Even so, he promised, "You will hear testimony ... that even if these regulations are adopted they will have no measurable impact on the temperature felt by anything living on this planet."

Kline spoke for less than 15 minutes and in more general terms than Clubok. He said the automakers' predictions of disaster run directly counter to advertising in which they tout their near-term plans for fuel-saving technological improvements, including hybrid and ethanol-fueled cars.

Vermont is not trying to regulate fuel economy, he said, but to do its part to reduce greenhouse-gas emissions.

"Vermont's rule by itself will not solve global warming, but it is a start. It is part of our overall response," he said.

A \$25 billion question

Under questioning by Clubok, Weversted, General Motors' executive director for environment and energy, described how GM looked at all the feasible fuel-saving technologies it could apply to its cars and trucks in the next 10 years. They included converting 90 percent of GM passenger cars to hybrids powered in part by batteries.

Even so, GM would be unable to meet the carbon emissions limits after the first one or two years of the regulations, he said.

GM would have \$25 billion in unrecoverable costs in its failed efforts to meet the standards, he said.

"Does GM have the resources to lose \$25 billion over the next 10 years?" Clubok asked.

"We don't have the capacity to make these changes," Weversted answered. As a result, he said, the company would not be able to sell many of its models in Vermont and other states starting in 2011; by 2016, GM would be out of business in those states.

On cross-examination, attorney Matthew Pawa, representing several of Vermont's environmental allies, drew Weversted to acknowledge that GM's analysis counted on no additional technological improvements after 2011.

And, Weversted acknowledged, GM assumed it would not employ half-a-dozen other fuel-saving technologies, including plug-in hybrids and ethanol-fueled cars.

In each case, he said, there was a technical or practical barrier to employing those technologies.

Pawa also had Weversted read a statement by a GM vice president in 1970, when carmakers were being pressed to install catalytic converters by 1975 to reduce smog-creating emissions. The vice president told a regulatory hearing "there would be an unreasonable risk of business catastrophe" and the regulation "could stop all production."

What happened? Pawa asked. Did all auto production stop, as the GM executive warned?

"We installed catalytic converters beginning in 1975," Weversted replied.

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