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ATTORNEY'S CORNER

There are new overtime rules scheduled to go into effect in New York State on December 1, 2016. The new rules will substantially increase the minimum salary required to be exempt from being paid overtime. Here is an overview of the rules and steps to take before December 1st, and to protect yourself from liability under the Fair Labor Standards Act (FLSA):

While most employees are "non exempt" (that is that they are entitled to minimum wage and overtime), the FLSA provides for exemptions from its minimum wage and overtime requirements for certain administrative, professional, executive, outside sales, computer professional, and highly compensated employees. To be considered "exempt" employees must generally satisfy three tests:

1. Salary-level test: Employees must earn a weekly salary that meets or exceeds the minimum requirements.

2 Salary-basis test: With very limited exceptions the employees must receive their full salary in any week in which they perform work, regardless of the quality or quantity of the work.

3. Duties test: The employee's primary job duties must meet certain criteria.

What Is Changing?

Here is a summary of the final rules, effective December 1, 2016:

- *Salary increase for certain exemptions. The minimum salary requirement for the administrative, professional (including the salaried computer professional), and executive exemptions increases from $455 per week to$913 per week ($47,476 annually).*
- *Total compensation increase for highly compensated employees. The minimum total compensation required for the highly compensated employee exemption increases from $100,000 to $134,004 per year, $913 of which must be paid on a weekly salary basis.*
- *Automatic updates. There will be automatic adjustments to these minimum salary requirements every three years, beginning January 1, 2020.*
- *Nondiscretionary compensation. For the first time, employers may use nondiscretionary bonuses (generally those announced or promised in advance), incentive payments, and commissions to satisfy up to 10 percent of the minimum salary requirement for the administrative, professional, and executive exemptions, as long as these forms of compensation are paid at least quarterly.*

Options for Compliance:

If your exempt employees' salaries fall below the new minimum, you generally have two options:

Option 1: Raise Salaries

The first option is to raise exempt employees' salaries to the new requirement (if you elect this option, review employees' job duties to ensure they continue to qualify for the applicable exemption). To determine the cost of raising an employee's weekly salary to the new minimum, subtract the employee's current salary from the new minimum ($913 per week). If applicable, factor in nondiscretionary bonuses, incentive payments or commissions (10 percent of which can be used to meet the new minimum).

Option 2: Reclassify Employees

If exempt employees don't meet the new salary requirement, the other option is to reclassify them as non-exempt and pay them overtime (1.5 times their regular rate of pay) whenever they work more than 40 hours in a workweek. If you choose this option, also check your state law for any additional overtime requirements that may apply to your employees.

To determine their hourly wage, divide their weekly salary by 40 hours. However, if they regularly work more than 40 hours per week, you'll need to account for the overtime premium in their new hourly wage to keep your costs about the same. Consider this formula:

Weekly Salary / [40 hours + (Overtime Hours Worked Per Week x 1.5)]

Example: An employee makes $715 per week and works 50 hours. Overtime hours = 10/week. [40 hours +(overtime hours x 1.5)] = 55 pay hors. Hourly wage = 715/55 = $11.18

While your Association realizes that these new rules can seem confusing and hard to understand and apply, they will nevertheless be affecting you daily starting December 1, 2016. Speak with your accountants to make sure your books and accounts have been adjusted to reflect the new reality.

The contents of this column are not intended as legal advice. I give no legal advice without an appointment and interview with a client.

INSIDE THIS ISSUE

1	Attorney's Corner
2	New York State Employee Voting Requirements
2-3	New Overtime Rules Effective Dec. 1: How to Calculate Overtime Pay
3-4	NYVIP Message No. 220
4	NYVIP Message No. 119
4	New Jersey Tax Bill Includes Phased-In 27ct Hike For Diesel
5	EIA Revises July Gasoline Demand Lower
5	WHO Recommends Raising The Price On Sugary Beverages
5	Trade Groups Unite Against Threat To Swipe Fee Reform
5-6	Congressmen Reveal 'Hidden Motive' Behind Swipe Fee Repeal Efforts
6	Charge For Credit Cards Goes To Supreme Court
6	EMV Adoption Remains Sluggish
6-7	Judge Gives Retailers Approval To Move EMV Case Forward
7	Georgia Gas Station Thwarts Skimmers
7	States Challenge Federal Overtime Rule
7-8	Governor Cuomo Enacts Surety Bond Bill Bill A8166 -- S5485 Assemblyman Crespo -- Senator Klein
7	7-Eleven Parent Intends To More Than Double U.S. Store Network
8	Health Groups Sue FDA Over Cigarette Warning Labels
8	Because You Asked
8	DMV Record Retrieval
8	Attention Inspection Stations

New York State Employee Voting Requirements

In New York, employers must provide employees time off to vote if they lack "sufficient" time outside of normal work hours to do so.

- Eligibility. In general, "sufficient" means the employee has four consecutive hours of non-work time when the polls are open.
- Pay. At least two hours of the time off must be paid.
- Schedule. Unless the employer and employee agree otherwise, the leave must be taken at the beginning or end of the employee's shift.
- Notice. Employers must post a notice about employees' voting leave rights at least 10 days before every statewide election. Employees must give at least two days' notice of their intent to use leave.

New Overtime Rules Effective Dec. 1:
How to Calculate Overtime Pay

The Fair Labor Standards Act (FLSA) requires employers to pay "non-exempt" employees at least the minimum wage for each hour worked as well as overtime pay for all hours worked in excess of 40 in a workweek.

There are exemptions from these requirements for employees that meet certain salary and job duties tests.

Effective December 1, 2016, the Department of Labor (DOL)'s final rules will raise the minimum salary requirements for the administrative, professional, and executive exemptions to $913 per week. To comply with the new rules, employers with exempt employees will need to:

1. Pay exempt employees a weekly salary of at least $913; or
2. Reclassify exempt employees as non-exempt and pay them overtime whenever they work more than 40 hours in a work week.

With the impending rule change, it's a good time to ensure you're calculating overtime correctly. Below is an overview of overtime requirements and some various pay scenarios to help you review your practices.

Overtime Background:

Under the FLSA, overtime is generally calculated at 1.5 times the non-exempt employee's "regular rate of pay." An employee's "regular rate of pay" includes their hourly rate plus the value of nondiscretionary bonuses, shift differentials, and certain other forms of compensation.

Note: Depending on the circumstances, some states have different overtime rates. For instance, California requires 1.5 times an employee's regular rate of pay for all hours worked over eight in a workday and two times an employee's regular rate for all hours worked over 12 in a workday.

Overtime Examples:

Example #1: Hourly Wage Only

A non-exempt employee is paid $20 per hour and receives no other forms of compensation. In one workweek, she works 50 hours. Under the FLSA, her overtime pay is calculated as follows:

$20 (regular rate) x 1.5 (OT premium) x 10 hours (OT hours worked) = $300 in OT pay

Example #2: Hourly Wage with a Nondiscretionary Bonus

A non-exempt employee is paid $10 per hour. In one workweek, he works 50 hours and also receives a $100 non-discretionary productivity bonus. Overtime is calculated as follows.

Step 1: Calculate total straight-time pay

($10 hourly rate x 50 hours worked) + $100 bonus = $600

Step 2: Calculate regular rate of pay

$600 straight-time pay divided by 50 hours worked = $12

Step 3: Calculate overtime premium pay

$12 regular rate of pay x .5 x 10 overtime hours = $60

Since the straight-time earnings have already been calculated (see Step 1), the employee is entitled to an additional 10 hours of overtime pay, calculated at one-half the regular rate of pay.

Step 4: Calculate total compensation for the week

$60 overtime pay + $600 straight-time pay = $660

Note: If the nondiscretionary bonus is earned over a single workweek, as is the case above, the bonus is added to the employee's regular earnings for that workweek when determining the regular rate of pay. However, if the bonus is earned over a series of workweeks, the bonus must be included in the regular rate of pay in all overtime weeks covered by the bonus period. In such a case, the employer may temporarily disregard the bonus in computing the regular hourly rate until the amount of the bonus can be determined. Once the amount is determined, it must be apportioned back over the workweeks of the period during which the bonus was earned. For example, if an employee receives a $2,600 bonus for meeting certain annual goals, you would divide $2,600 by 52 weeks, which results in the weekly equivalent of $50. Then add $50 to the employee's regular earnings in each workweek the employee worked overtime to figure out the employee's regular rate of pay for that week and make catchup payments accordingly.

Example #3: Multiple Rates of Pay

A non-exempt employee works for the same employer in two different jobs. In one workweek, the employee works 10 hours for $10 per hour and 40 hours for $20 per hour. When there are two or more rates of pay, the regular rate for that workweek is the weighted average. To calculate overtime:

Step 1: Calculate total straight-time pay

($10 hourly rate x 10 hours) + ($20 hourly rate X 40 hours) = $900

Step 2: Calculate regular rate of pay

$900 straight-time pay divided by 50 hours worked = $18.00

Step 3: Calculate overtime premium pay

$18.00 regular rate of pay x .5 x 10 overtime hours = $90.00

Since the straight-time earnings have already been calculated (see Step 1), the additional amount to be calculated is one-half the regular rate of pay.

Step 4: Calculate total compensation for week

$900 straight-time pay + $90 overtime pay = $990

Example #4: Salaried Non-Exempt Employee with Fixed Schedule

A non-exempt employee with a fixed schedule earns a weekly salary of $400 and is expected to work 40 hours for that salary. In one particular workweek, the employee works 50 hours.

Step 1: Calculate total straight-time pay

$400 salary divided by 40 hours = $10 hourly rate

50 hours worked x $10 hourly rate = $500.00

Step 2: Calculate regular rate of pay

$500.00 straight-time pay divided by 50 hours worked = $10.00 per hour

Step 3: Calculate overtime pay

$10 regular rate of pay x .5 x 10 overtime hours = $50

Since straight-time earnings have already been calculated (see Step 1), the additional amount to be calculated is one-half the regular rate of pay ($10 x .5=$5).

Step 4: Calculate total compensation for week

$500.00 straight-time pay + $50 overtime pay = $550

Note: Under the FLSA, to calculate a salaried non-exempt employee's regular rate of pay, for overtime purposes, consider the number of hours the employer and employee understand that the salary is intended to cover. For example, if the employer and employee understand the salary to cover 45 hours, then the employer may calculate the regular rate of pay by dividing the weekly salary by 45 hours. In this case, the overtime rate would be .5 x the regular rate for hours 40 to 45 and 1.5 times the regular rate for hours in excess of 45 under the FLSA. Some states have different rules. For example, California limits the salary to cover a maximum of 40 hours. Check your state law to ensure compliance.

Conclusion:

` With new overtime rules going into effect December 1, 2016, employers' overtime practices may face increased scrutiny. Be sure to calculate and pay overtime in accordance with state and federal laws.

NYVIP Message No. 220
Date: October 17, 2016
To: All Inspection Stations
From: NYS Department Of Motor Vehicles
Subject: 2018 Sticker Ordering Now Available

Below are instructions for ordering next year's stickers.

**PLEASE PRINT A COPY OF THIS MESSAGE AND DELIVER IT TO THE PERSON WHO ORDERS YOUR INSPECTION STICKERS. **

Effective today, October 17, 2016, inspection stickers with an expiration year of 2018 are available for order.

HOW TO ORDER STICKERS:

To order stickers on the NYS DMV website go to http://dmv.ny.gov/sticker/default.html

It is your responsibility to order next year's stickers promptly so that you have proper supply on hand by January

1, 2017. Sticker orders are processed in the order received. Please allow 4-5 weeks for processing.
If you have any questions, please contact Sticker Issuance at (518) 474-2398.

NYVIP2 Message No. 219
Date: 10/4/2016
To: All Inspection Stations
From: OPUS Inspection Inc
Subject: NYVIP2 Software Update
Please Bring This Message To The Attention Of The Station Owner And/Or Manager

A NYVIP2 software update to version 16.07.08 will be rolled out to all Emissions Inspection Stations beginning October 4th. You must accept and load the new software when it is available on your NYVIP2 Computerized Vehicle Inspection System (CVIS).
Software Version 16.07.08 Improvements and Functionality

- Messaging added to vehicle inspection receipt notifying the motorist to check safercar.gov for open recalls
- Improved DMV 1D registration barcode and 1D VIN plate barcode reading
- Improved station messaging via NYVIP2 unit (supports PDF messages)
- NYVIP2 camera functionality to capture an image of the inspector at the beginning of the inspection and to improve inspector verification and security for inspection stations.

Camera Functionality

As you were advised in NYVIP message 93, and in the installation instructions that came with your NYVIP2 CVIS, a connected camera is a required part of the CVIS configuration. All NYVIP2 CVIS systems were delivered with a web-camera as part of the required equipment.

After downloading the new software, if you receive an error message that the camera was not detected during the inspection, simply connect your camera to avoid future error messages. Please visit www.nyvip.org to review the detailed “Camera Installation” instructions under ‘Forms and Downloads’. Or call Opus Inspection at 1-866- 623-8378.

Note: Actual use of the camera is not required at this time to conduct inspections. If you cannot connect your camera because it has been misplaced or lost, you may simply hit “Continue” when you get the error message to complete the inspection. Contact Opus if you have any questions.

<u>Update Instructions For Dial-Up Stations</u>

Broadband internet connections are preferred however, if your analyzer communicates using a dial up connection, you must leave the analyzer powered on overnight on the Main Menu with the phone line connected. Updates received via dial up connection will be received overnight when the phone lines are less congested.

NOTE: Software updates using dial-up connections will take longer. How long it will take depends upon your phone line performance and connection. We recommend that you check your phone service contract and understand charges you will incur due to long connection periods that are common with NYVIP2 software updates over dial-up.

New Jersey Tax Bill Includes
Phased-In 27ct Hike For Diesel

The diesel portion of the New Jersey tax legislation awaiting Gov. Chris Christie's (R) decision involves an increase of 27cts/gal to be phased in during 2017, according to the New Jersey Gasoline, C-Store, and Automotive Association (NJGCA).

As previously reported by OPIS, state legislative leaders and the governor agreed at the end of September to raise the tax on gasoline by 23cts/gal to pay for the state's depleted transportation fund (the Transportation Trust Fund, or TTF).

During the following week, New Jersey lawmakers hammered out the legislation for the gasoline tax increase as well as rise for the diesel tax, a cut in the state sales tax, the elimination of the estate tax, the length of the TTF funding plan and other tax provisions.

Christie has been considering the bill since lawmakers approved it on Oct. 7, and as of presstime he was expected to sign the measure.

If signed, the gasoline tax increase would go into effect on Nov. 1 or 15 days after the governor signs the bill. The fuel-tax increase would be the first for the state since 1988.

The tax on diesel will remain the same until Jan. 1, 2017, at which time it would then rise by 19cts/gal. On July 1, 2017, the tax will increase another 8cts/gal for a total net increase of 27cts/gal.

Stations will be responsible for reimbursing New Jersey the amount of the new tax on all fuel that is in underground storage at the time that the increases occur, NJGCA said.

The bipartisan agreement is expected to end a months-long statewide transportation-related construction freeze which began when the TTF ran out of money on July 1. TTF pays for road and rail projects.

The bill's funding program for TTF is an eight-year plan, meaning petroleum marketers "will not have to worry about the gas tax for some time," NJGCA said in its On the Road magazine.

On Jan. 1, 2017 the New Jersey sales tax will fall from 7% to 6.875%. One year later, it will decrease again, to 6.625%.

Once enacted, the gasoline tax increase will catapult the Garden State's gas tax from the second-lowest to the seventh-highest in the country.

New Jersey's current tax of 14.5cts/gal on gasoline is the second-lowest in the U.S. after Alaska. The new tax at 37.5cts/gal would be cheaper than New York's 43.4cts/gal, Pennsylvania's 50.3cts/gal, and comparable to Connecticut's 38.3cts/gal, according to the American Petroleum Institute.

The current tax on diesel in New Jersey is 17.5cts/gal.

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EIA Revises July Gasoline Demand Lower

In its monthly data released late Friday afternoon, the EIA revised July gasoline demand lower from the weekly data released at the time.

The monthly data has a higher resolution and is considered the final say on demand. The weekly numbers in July had implied average demand during the month of 9.753 million b/d, which would have beaten the highest demand record month of June 2016, which came in at 9.663 million b/d.

Data released this afternoon indicates that U.S. gasoline demand stood at 9.597 million b/d, a downward revision of 156,000 b/d or 1.6%. Although 2016 is still in line to be the strongest demand year on record, the race with the 2007 gasoline demand is getting tighter. The July 2016 demand figure falls short of 2007's July record of 9.640 million b/d.

Through the first seven months of the year, gasoline demand has averaged 9.312 million b/d, and that represents just a 45,000-b/d increase from the 2007 level of 9.267 million b/d through July of that year.

On a year-to-date basis, the gasoline demand figures are running some 2% ahead of the same period of 2015. While the month figures are much softer than what the weekly figures have shown, many marketers and those in the downstream arena see demand growing at a much more modest 1% clip. An OPIS survey of nearly10,000 stations nationwide shows that year-to-date demand growth is closer to 0.5%.

Distillate demand continues to see its struggles. July distillate demand was revised lower to 3.578 million b/d, a downward revision of just about 100,000 b/d from the weekly figures. The July monthly demand figure for distillate was the lowest since July 2012, and is a decline of almost 9% from July of last year. 2016 distillate demand continues to trail 2015 as all seven months have seen a year-on-year drop in distillate demand.

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WHO Recommends Raising
The Price On Sugary Beverages

To combat obesity worldwide, the World Health Organization (WHO) this week issued a new report suggesting that an increase of at least 20% in the retail price of sugary drinks would reduce consumption. The report also says that subsidies used to reduce retail prices of fresh fruits and vegetables by 10%–30% would increase the consumption of fruit and vegetables.

"Consumption of free sugars, including products like sugary drinks, is a major factor in the global increase of people suffering from obesity and diabetes," says Dr. Douglas Bettcher of the WHO. "If governments tax products like sugary drinks, they can reduce suffering and save lives. They can also cut health care costs and increase revenues to invest in health services."

Dr. Francesco Branca of the WHO said in a statement that sugary drinks are a major source of unnecessary calories, recommending that people should only drink one serving (about 8 ounces) a day.

The New York Times writes that the WHO has previously recommended that countries impose a tax on sugary drinks to reduce obesity rates. This week's report culminates the work of a panel of experts the WHO convened in mid-2015, who reviewed scientific literature that included mathematical modeling and studies of actual taxes applied in countries.

WHO spokesperson Paul Garwood commented that South Africa and Britain are considering such taxes, while Mexico passed a sugary-drink tax in 2013 and Hungary imposed a tax on packaged products with high sugars, salt or caffeine levels. In the United States, the Times writes that New York City struck down a soda tax in the courts, although Philadelphia and Berkeley, California, have been successful at carrying out such policies.

Trade Groups Unite Against
Threat To Swipe Fee Reform

Retailer associations are urging members of the U.S. House of Representatives to vote against an effort to repeal debit swipe fee reform that is winding its way through Capitol Hill.

In a letter to House Speaker Paul Ryan (R-Wis.) and House Minority Leader Nancy Pelosi (D-Calif.), more than 180 merchant associations asked lawmakers to reject language in the Financial CHOICE Act, which would replace the Dodd-Frank Wall Street Reform and Consumer Protection Act.

"Six years ago, American consumers and merchants earned a hard-fought victory over escalating, uncontrollable fees with the inclusion of the debit reform measures in Dodd-Frank. These reforms brought a level of transparency (for the first time small businesses can see and know exactly how much they will be charged for a debit transaction from one of the covered institutions) and a level of competition into a market where fees were traditionally set collectively behind closed doors and without regard to the costs imposed on American consumers and retailers," the letter stated.

The letter pointed to benefits of debit reform, which injected competition into the payments market, provided retailers with more transparency, and benefited consumers who have experienced the savings.

"These savings have permitted merchants to reinvest in their businesses, which has supported tens of thousands more jobs and significant economic activity," the groups wrote.

Congressmen Reveal 'Hidden Motive'
Behind Swipe Fee Repeal Efforts

U.S. Sen. Richard Durbin (D-IL) and Rep. Peter Welch (D-VT) wrote an op-ed to highlight the benefits of debit swipe fee reforms enacted more than six years ago, as well as shine a light on the motives behind why Visa, MasterCard

and large banks have ramped up efforts to repeal meaningful swipe fee reforms.

"The big banks and card networks have never accepted this fundamental [swipe fee] reform," wrote the members of Congress, noting how repealing swipe fee reform "would reduce competition and make Americans pay billions more in debit card fees to banks."

However, Durbin and Welch believe there is actually another motive behind lobbying campaigns to repeal swipe fee reforms: "We believe the push to refight the swipe fee wars of the last decade is really an effort to distract and deter Congress from scrutinizing new electronic payments schemes that are underway right now. Main Street cannot afford for Congress to ignore these schemes."

They cite several transitions percolating within the electronic payments space: tokenization, mobile payments and enhanced security/authentication methods such as biometrics.

"Visa, MasterCard and the big banks know that if they can shape the rules and technology standards for these transitions, they can rig the system to entrench their own market dominance and generate untold billions for themselves in new fees," Durbin and Welch wrote.

"We have seen what happens when we let the card networks and their big bank allies set the rules. Just look at the botched transition to EMV chip card technology—a transition that was dictated by Visa, MasterCard and their proxy organizations EMVCo and the PCI Security Standards Council. …[T]he rest of the world uses a chip-and-PIN system that is faster and more secure. But the EMV transition in the U.S. was designed to stifle chip-and-PIN technology because Visa, MasterCard and their big bank issuers make more money when PINs are not used."

The members of Congress point out that Congress and regulators must ensure that all stakeholders in the economy, such as consumers, merchants, fintech providers, small banks and smaller card networks, "have a meaningful voice in setting the rules and technology standards" on payments innovations coming down the pike.

"We have seen that the big banks and dominant card networks profit enormously when they are able to control the rules and inhibit normal market competition in the electronic payments system. That's what they did by setting up the swipe fee system originally, with Visa and MasterCard price-fixing fees on behalf of thousands of banks so the banks wouldn't have to compete with each other on fee rates. But Main Street America deserves an electronic payments system with competition and transparency."

Charge For Credit Cards Goes To Supreme Court

The credit-card surcharge fee issue arises in Expressions Hair Design v. Schneiderman. Merchants pay a "swipe fee" whenever a customer uses a credit card; that fee is often passed on to customers. A New York law allows merchants to give "discounts" to customers who pay in cash, but it criminalizes the imposition of "surcharges" for customers who use credit cards. A group of merchants challenged the law, arguing that it violates the First Amendment because it restricts what they can tell their customers. In particular, many merchants would prefer to describe the fees as surcharges to discourage their customers from using credit cards. In this case, the 2nd Circuit disagreed, reasoning that the New York law only regulates prices – not speech. But another appeals court struck down a similar law in Florida; now the justices will presumably resolve the conflict.

EMV Adoption Remains Sluggish

The Strawhecker Group (TSG), a management consulting firm focused on the global payments industry, released survey results this week that estimate 44% of U.S. card-accepting merchants have EMV terminals. TSG also found that less than a month away from the October 1 anniversary of the EMV liability shift, only 29% of U.S. merchants are actually able to accept chip-based transactions.

TSG's previous survey of payment processors and other payment providers completed in January estimated that more than 50% would have an EMV terminal by this time, showing a slower pace of implementation than expected.

"EMV merchant adoption has slowed down a bit, at least comparatively speaking to our last EMV survey results in January 2016," said Jared Drieling, business intelligence manager at TSG. Approximately one-third of merchants have activated EMV POS systems despite the larger base of U.S. merchants with EMV terminals in place. "EMV terminal vendor supply and delays in the terminal activation/certification process are the bottlenecks in the migration," he said.

By December 2016, it is estimated that consumers will be able to use their chip-based credit and debit cards at 51% of U.S. merchant locations, according to TSG. "It is also important to note that EMV adoption by … industry can vary drastically; for example, quick-service restaurants are suspected to be laggards in the transition," Drieling added.

The survey also indicated that more than 60% of respondents have experienced an increase in the number of chargebacks due to a lack of EMV compliance. "It is clear that non-EMV compliant merchants have felt the impact of the liability shift. The good news is that as merchants refresh their terminals for EMV, they are also adopting the contactless capability [that] lays down the foundation for future payments such as mobile proximity payments," Drieling said.

Judge Gives Retailers Approval To Move EMV Case Forward

A district court judge has ruled that the retailers who have filed an antitrust and conspiracy lawsuit against credit card networks over EMV may proceed with their case, Mobile Payments Today reports. Two Florida merchants filed the lawsuit in March.

District Court Judge William H. Alsup overruled the motion by American Express, Discover, MasterCard and

Visa to dismiss B & R Supermarket, Inc., et al v. Visa Inc., et al. The lawsuit claims that large banks and card networks colluded to put the liability of card fraud onto retailers, but they still charge fraud protection via interchange fees to those merchants.

"The amended complaint sufficiently alleges a context that raises a plausible and reasonable suggestion of collusion," wrote Alsup in his opinion. "Plaintiffs have sufficiently pled the basic evidentiary facts as to involvement in Visa, MasterCard, and American Express in the alleged conspiracy."

Georgia Gas Station Thwarts Skimmers

A little vigilance goes a long way. Customers at a PJ's store and Chevron gasoline station in Woodstock, Ga., avoided having their credit or debit card info stolen when the manager foiled the installation of a skimming device, the Atlanta Journal-Constitution reports.

Pragnesh Patel told a local news station that two men drove up to the station in an SUV last weekend with the intent to commit a crime. "One of them came into distract me and the other successfully put the skimming device inside [the gas pump]," he said. That's a typical modes operandi of thieves bent on inserting skimmers into pumps.

However, because the station had taken precautions by having alarms in place to alert store personnel of any unwarranted activity, Patel knew nearly at once that someone had disconnected a wire inside the pump to attach a device. He immediately checked the pump, saw the skimmer and contacted the local authorities.

In his interview with the television station, Patel said the criminals must have been successful, given the expensive vehicle they drove to his station. "You can see what kind of car they're driving—he was driving a Range Rover—so he was making money somewhere," Patel said.

The Cherokee County Sheriff's Department recommended drivers check gasoline pumps to ensure the security seal is in place and unbroken.

States Challenge Federal Overtime Rule

Texas Attorney General Ken Paxton and Nevada Attorney General Adam Paul Laxalt filed a lawsuit on Wednesday on behalf of 21 states, challenging the Obama administration's overtime rule.

The AGs maintain that the overtime rule more than doubles the salary threshold for a U.S. worker to be entitled to overtime and will force many state and local governments, as well as private businesses, to substantially increase their employment costs. Some governments and private businesses may even be forced to eliminate services or lay off employees.

Joining Texas and Nevada in the lawsuit are Alabama, Arizona, Arkansas, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Nebraska, New Mexico, Ohio, Oklahoma, South Carolina, Utah and Wisconsin.

Also, the National Retail Federation filed a suit in U.S. District Court on behalf of the millions of employers and employees who will be drastically affected if the Labor Department's changes to the federal overtime rules go into effect on December 1.

"Retailers are already struggling to implement this new government mandate before the swiftly approaching deadline, and the automatic update included in the rule would make them do this same dance every three years for as long as they are able to remain in business," said NRF Senior Vice President for Government Relations David French. "This is a massive government overreach of executive authority, and the courts need to put a stop to it."

Governor Cuomo Enacts Surety Bond Bill

Bill A8166 -- S5485

Assemblyman Crespo -- Senator Klein

The subject bill amends the New York State Vehicle and Traffic Law concerning surety bond requirements for car dealers The bill will increase the required surety bond level for all used car dealers, with a lower bond level for those with a low volume of sales, and a higher bond level for those with a high volume of sales.

The bill provides that used motor vehicle dealers must obtain and maintain a surety bond of $20,000, if they sell fewer than 50 cars annually, or a surety bond of $100,000, if they sell more than 50 cars annually. Dealers who currently have a bond in effect prior to the effective date of the act will not have to increase their bond levels to the new levels until they alter, extend, replace, etc. their current bond.

Surety bond issuers must notify the Department of Motor Vehicles when a dealer's bond expires, and the DMV must verify within five days that a dealer currently has a valid surety bond.

Under current law, the surety bond required for new, franchised dealer-ships is $50,000. Used dealerships who have sold less than 200 vehicles in the previous calendar year must obtain a surety bond in the amount of $10,000. Used dealerships who have sold more than 200 vehicles in the previous calendar year must obtain a surety bond in the amount of $25,000.

The sponsors of this bill claim that surety bond levels in New York are inadequate to protect consumers in the event of a default by dealerships. Currently dealers are mandated to obtain a $10,000, or at most, a $25,000 surety bond.

We argued that the current requirement of $10,000 bond is sufficient to protect the consumer. The New York State Lemon Law is also effective is protecting consumer against deceptive practices.

The increase in the amount for a surety bond to $20,000 and up to $100,000 will increase the cost of doing business and the ultimate cost of the vehicle to the consumer.'

The sponsors gave no examples of case where a consumer was injured due to a security bond that is currently $10,000 to $25,000. There are no good reasons to increase the expense of the bonds. There are no problems. so there is no reason to fix them.

Our arguments fell on deaf ears, however. We thank those who voice objection to the bill, and ask they not be discouraged the next time they are called upon to lobby.

7-Eleven Parent Intends To More Than Double U.S. Store Network

Seven-Eleven Japan Co., which owns 7-Eleven Inc., told the Japan Times that it intends to grow its U.S. convenience store chain to 20,000 from 8,500.

The newspaper reported that the United States affiliate is preparing to add thousands of stores after introducing Japanese-style product development and services through personnel exchanges with Seven-Eleven Japan, President Kazuki Furuya was quoted as saying.

The executive reportedly said that U.S. customers have tended to be lower-income people but a growing number of middle-class customers are going to c-stores because product quality has improved. A change in product mix could almost double sales, the Japanese report says.

As previously reported in Oil Express, 7-Eleven recently has had a growing emphasis on both retail and wholesale motor fuel sales.

--Donna Harris, dharris@opisnet.com

--Copyright, Oil Price Information Service

Health Groups Sue FDA Over Cigarette Warning Labels

This week, eight public health groups filed a lawsuit against the U.S Food and Drug Administration to force the government to require graphic warning labels on packs of cigarettes.

The lawsuit was filed on Oct. 4 in the U.S. District Court of Massachusetts by the American Academy of Pediatrics, the Massachusetts Chapter of the American Academy of Pediatrics, the American Cancer Society, the American Cancer Society Cancer Action Network, the American Heart Association, the American Lung Association, the Campaign for Tobacco-Free Kids, Truth Initiative and several individual pediatricians.

The groups maintain that the FDA is required by law to issue a final rule implementing Section 201(a) of the Family Smoking Prevention and Tobacco Control Act of 2009, which requires cigarette packages and advertisements to bear color graphic images and specified textual warnings.

On June 21, 2011, the FDA announced the nine graphic cigarette health warnings required to appear on every pack of cigarettes, carton and cigarette advertisement no later than September 2012. However, reports the Wall Street Journal, tobacco companies sued, and those labels were struck down in federal court on First Amendment grounds in 2013. The FDA has not taken up the issue of graphic warning labels since.

The Journal notes that the lawsuit filed this week is asking the court to set a deadline for the FDA to establish a new graphic warning rule, saying that the FDA "has been in violation [of the 2009 law] for more than four years."'

` Across the globe, the Campaign for Tobacco Free Kids estimates that more than 90 other countries have graphic warning labels, with Australia and Spain including photos on cigarette packs of gangrene feet and decaying teeth.

Because You Asked

Q: How many C operators must be certified per shift at a service station to accommodate DEC regulations?

A: At least one.

Q: Can an A and or B operator serve as a C operator?

A: If the A or B Operator is on-site, DEC suggest having them listed as a Class C Operator as well.

DMV Record Retrieval

DMV record retrieval is available to association members and affiliates at a cost of $12 per record. Additionally, you may order DMV certified paper abstracts of driver's license, vehicle registration, and vehicle title records for an additional fee of $2 per abstract. Please call 607-723-1849.

Attention Inspection Stations

The Association has received a flurry of requests for legal representation for violations of the DMV commissioner regulations known as "clean scanning." that is when a vehicle other that the one to be inspected is substitute for the OBD-II part of the test. We have no defense for these violations. DMV has the ability to trace the OBD-II inspection to the vehicle used for the inspection.

If you cannot pass a vehicle for any reason, get help. That help could come from DMV. This violation almost always results in revocation.

Service Station & Repair-shop
Association of Central N.Y., Inc.
AFFIIATED WITH THE NYS ASSOCIATION OF SERVICE STATIONS & REPAIR SHOPS, INC.

1235 Upper Front Street
PMB #105, Suite 5
Binghamton, NY 13901
Phone: 607-398-7260

October 2016

Dear Member/Supporter:

The Service Station and Repair-Shop Association Trade Journal is currently under construction for the 2017 year. We are again requesting your assistance and support. Your fellow members' use this publication as a means of doing business with co-members and those that support our industry and Association.

I am enclosing an application for your ad in the Journal. It can be used by both members and for companies that want our members to consider them first when in need of special services, supplies and/or materials.

We are asking you, as a member and/or supporter, to place an ad and to solicit your suppliers to take one as well. It is helpful to include advertisements in the trade journal not only for service stations, but for banks, insurance companies, providers of supplies and materials, food and beverage vendors, and all those with whom you do business with on a daily basis. Please feel free to copy this application and pass it on to them. You are the only one who knows who you do business with. Also, be sure to let them know that the 2017 Trade Journal is distributed to all association members and supporters and will include their contact information.

The Journal acts not only as a directory of telephone numbers and services, but tells everyone who we are and what we do. It provides a source of revenue to assist in our continued efforts to protect the industry and includes an extensive list of legislative issues in which the association is involved.

Remember, your dues and additional support given to the Association should never be considered an expense but rather an investment in your business and future!

If you have any questions please call (607) 398-7260. We look forward to your support.

Thank you.

Ralph Bombardiere
Executive Director

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2017 DIRECTORY

COMMERCIAL & NON-COMMERCIAL ADVERTISING CONTRACT

Date: _____

I/We hereby authorize the Service Station & Repair-shop Association of Central, N.Y., Inc.

to insert a (check one) _____Full Page $175.00
_____1/2 Page $ 95.00
_____1/4 Page $ 75.00

advertisement in the 2017 Trade Directory, Buyers Guide and Reference Book published by this Association, for which I/we agree to pay the sum of: $_____

Firm Name: _____

Street Address: _____

City/State/Zip: _____

Phone #: _____

Signature: _____

(Please provide a copy of your ad & respond by DECEMBER 15th.)

☐ **Check here if you want us to repeat last year's advertisement for your business.**

FREE MONEY

BE A MEMBER OF OUR ASSOCIATION OR AFFILIATES
FILL OUT THIS FORM AND FAX BACK TO US
BUY $7500 IN PARTS IN ONE QUARTER FROM YOUR **NAPA DEALER**
RECEIVE A REBATE CHECK FOR 2% OF YOUR PURCHASES (MINIMUM OF $150 REBATE)
PUT THE MONEY IN YOUR POCKET
NOTE: YOU CAN NOT BE A MEMBER OF THIS AND ANOTHER NATIONAL NAPA PROGRAM

FREE MONEY

Name of Your Business:		
Business Address Street:		
City:	State:	Zip:
Phone:	Fax:	E-Mail:
Name of NAPA Dealer:		
NAPA Street Address:		
City:	State:	Zip:
Phone:	Fax:	
Additional NAPA Dealer(s) you do business with:		
Name of NAPA Dealer:		
NAPA Street Address:		
City:	State:	Zip:
Phone:	Fax:	
Name of NAPA Dealer:		
NAPA Street Address:		
City:	State:	Zip:
Phone:	Fax:	

FAX this form back to:
518 452-1955

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QUESTIONS CAN BE DIRECTED TO (518) 452-4367. WE ARE AVAILABLE TO PROVIDE PERSONAL ASSISTANCE.

Garage Insurance Survey

Name of Business:			
Street Address:			
City:	State:	Zip:	
Phone #	Fax #	E-Mail:	
Contact Person:		Phone # (if different from above)	
Are you happy with the cost and service provided by your carrier/agent?		Yes	No
If yes STOP here… If NO or NOT SURE you may want to look at the following			
Is your coverage insufficient?		Yes	No
Is the service poor to non-existent?		Yes	No
Is the cost too high?		Yes	No
Are you satisfied with your current coverage?		Yes	No
Are you interested in a quote from another insurer?		Yes	No

Is so please check each that apply:

		Property & Casualty
		Workers Comp
		Disability
		Health

If you checked one or more of the above please provide the following information:
Name of Current Insurer:
Type of Insurance:
Renewal Date:
When/How is the best time to contact you?

If you are interested in learning how you may save on insurance costs
Please fill out and fax to your local association at 518-452-1955

ALLYHEALTH

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What is Telemedicine?

- Telemedicine a/k/a **"Doctors by Phone Service"** is quickly becoming an integral part of the healthcare environment.
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EMPLOYEES:

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- Reduce costly visits to the doctor.
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Click for more details:

INSURANCE AGENCY GROUP OF NY
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NEW YORK STATE SAFETY GROUP 536 DECLARES

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