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ATTORNEY'S CORNER

Here's a present of helpful hints to keep in mind as you operate your business:

- Always remember to update your corporate or LLC documents to reflect changes in shareholders, officers, directors of the corporation and members of the LLC. A member recently tried to transfer his repair shop and inspection license to his son and could not because a former partner, who left the business 20 years ago without officially resigning in a writing but who was on the license, could not be found to sign off on the transfer. What a costly mess it was to straighten that situation out.
- Be sure to update and correct your licenses and permits, too, as needed. Another member was just fined $500 by the D.E.C. because on his Petroleum Bulk Storage Permit, next to a tank designated as being for "Used Oil", there was language in parentheses stating "(for heating-onsite consumption)". Obviously, the waste oil wasn't being used for that but for the incorrect information on the permit, and for not having the Dealer's name on the permit but only the Landlord's and the Supplier's name, the member was fined $500.
- Avoid other administrative violations by keeping up your daily inspection reports records / Report all missing or destroyed inspection stickers to the DMV / Make sure your outdoor repair and inspection signs meet all requirements for size, color, numbers, etc.
- If you issue an emissions waiver you must have copies of all pertinent documents to support the repairs made to attempt to fix the problem.

I know that this may seem like a lot to keep track of, busy as you are. Doesn't matter, so you have got to institute a calendar and system to keep you abreast of these items and to take all needed actions to correct and amend any deficiencies. Otherwise, sooner or later, you will pay a penalty that my be very expensive indeed.

But hey, we're still making a living in the greatest country in the world and we still have so very much to be thankful for. Count your blessings and we hope you had a Happy Holiday Season! - it would be ungrateful not to!

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

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Congress Passes 5-Year Highway Bill –
Tire Registration Outcome

The Tire Industry Association reports that Congress has passed a five-year, $305 billion highway bill. The bill-which spans the longest time frame for a transportation measure in 17 years-provides money for roads and rail projects, renews the Export-Import Bank, and restores a crop-insurance subsidy. The bill passed on a vote of 359-65 in the House and 83-16 in the Senate. President Obama signed the bill.

The 1,301 page bill does contain the tire registration language but does not include any tax increases on the tire industry.

During the conference, the bill was amended and does contain TIA's language requiring the Secretary of Transportation to conduct a study (and to submit it to the Committee on Commerce, Science, and Transportation in the Senate and to the Committee of Energy and Commerce in the House of Representatives) requiring manufacturers to include electronic identification on every tire that reflects all of the information required in the tire identification number and to ensure that the same type and format of electronic information technology is used on all tires.

The Association would like to thank its members for the tremendous grassroots response on this issue which resulted in having language added to the bill in conference requiring the Secretary of Transportation to conduct a study reviewing available technologies on the best way to proceed.

The conferees deleted Association language that the study must be complete before a rule on tire registration can be considered. There is also no timetable on the study and Association does not understand the logic of deleting the timetable.

The Secretary of Transportation is also directed to promulgate rulemaking activity for Tire Fuel Efficiency Minimum Performance Standards and for Tire Wet Traction Minimum Performance Standards. The Secretary of Transportation will also be required to establish a publicly available and searchable database of tire recall information (searchable by Tire Identification Number (TIN) and other criteria that assists consumers in determining whether a tire is subject to recall).

Tire Pressure Monitoring System

Another amendment to the Transportation Bill (Section 24115) directs the Secretary of Transportation to update the standard on tire pressure monitoring systems (TPMS), FMVSS 571.138, to ensure that they cannot be overridden, reset or recalibrated in a way that will prevent the system from identifying a tire that is significantly underinflated. The under inflation threshold for most indirect TPMS systems is set by pressing a button in driver's compartment of the vehicle. It is designed to allow the driver or a technician to establish the baseline after the inflation pressure in the tires has been set to the placard.

When the driver sees a low-pressure telltale illuminate on a vehicle with one of these indirect systems, they can press the same button to eliminate the telltale on the instrument panel without adjusting the inflation pressure in any of the tires. This has the effect of overriding the system in the sense that the tires are underinflated, but pressing the button establishes a new, and lower, threshold for the TPMS to notify the driver. The Proposed Rule will require manufacturers to reconfigure the TPMS to ensure the threshold cannot be overridden, reset or recalibrated in this or any other way.

Industry representatives felt this would prevent dealers from recalibrating the TPMS on different types of vehicles so they added language in a Final Rule. The Final Rule ensures that systems can be reset or recalibrated when sensors are repositioned with different pressure recommendations, during tire rotations, or when the tires/wheels are a different size than the original equipment specification. This would ensure that the TPMS would be able to notify the driver when one or more of the tires were significantly underinflated.

The final paragraph that was added to define the term "significantly underinflated pressure level. Based on the language, the TPMS threshold cannot be set to a pressure that is lower than the one mandated by 571.138, which means the placard pressure is the lowest pressure that can be used to establish the under inflation threshold where the telltale would illuminate. It also includes language that ensures the TPMS threshold is not below the recommended cold inflation pressure of the wheel or tire manufacturer in the case of replacement tires and wheels. On the surface, it appears that this would continue to allow retailers to raise the TPMS threshold when replacement tires require a higher pressure than the original equipment fitment.

To summarize, Section 24115 closes the loophole on indirect systems so drivers cannot use the reset button to recalibrate the TPMS threshold instead of adjusting the inflation pressure to eliminate the telltale. It also includes safeguards to ensure the TPMS can continue to be reset following sensor reposition, tire rotation or tires/wheels that are different size than the OE fitment. Finally, Section 24115 ensures the TPMS threshold cannot be lower than the one established by the OE inflation pressure on the placard and allows dealers to continue the practice of raising the threshold when replacement tire require higher inflation pressures.

Prepaid Motor Fuel Sales Tax Increase

NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
Submitted in accordance with Senate Rule VII Sec I
BILL NUMBER:
SPONSOR: Boyle
TITLE OF BILL: An Act to amend the tax law, in relation to increasing the amount of tax required to be prepaid on motor fuel.
PURPOSE OR GENERAL IDEA OF BILL: Amends the tax law to increase the prepaid state tax amount collected on motor fuel.

SUMMARY OF SPECIFIC PROVISIONS: Section 1 amends paragraph 2 of subdivision (e) of section 1111 of the tax law to increase the prepaid tax amount from 14 cents to 18 cents for the Metropolitan Commuter Transportation region and 14 cents to 16 cents for the rest of the state.
JUSTIFICATION: Currently, motor fuel distributors are required to prepay sales tax (14 cents per gallon in the Metropolitan Commuter Transportation region and 14 cents per gallon for the rest of the state) upon import of motor fuel. This payment currently covers the full amount of state sales tax and only a portion of local sales tax.

Because fuel prices have increased since the current prepaid rates were set, these amounts only provides for prepayment of approximately 50-60% of the local sales tax. This bill will require that the state sales tax and a larger share of the local sales tax will be paid up front by distributors. It does not increase sales taxes on motor fuel.

By increasing the prepaid amount, this legislation will ensure counties receive more of their sales tax revenue up front and protect them from fraudulent retailers who do not currently pay the appropriate amount in local sales tax per gallon.
PRIOR LEGISLATIVE HISTORY: New bill.
FISCAL IMPLICATIONS: None to the state. Increased revenue for county governments.
EFFECTIVE DATE: Sixty (60) days after it shall have become law.
Let us know what you think.

Two-Year Tax Extender Bill Sent As House Amendment

House Ways and Means Chairman Kevin Brady (R-TX) sent to the House Rules Committee last night a two-year tax extenders bill tabled as a House amendment to a Senate amendment to H.R. 34. The measure, "Tax Increase Prevention and Real Estate Investment Act of 2015," is basically a fall back bill to be passed in case no deal can be reached on a broader bill making some extenders permanent.

The Work Opportunity Tax Credit (WOTC) will be reauthorized retroactively until the end of 2016 in section 119 of the bill, and a new target group, "Long-term unemployment recipient," will be added for hires in this category made after December 31, 2015.

WOTC reauthorization extends the veterans hiring credits of the VOW To Hire Heroes Act for the same two-year period. The Indian Employment tax credit and Empowerment Zone designations and tax credits are extended similarly, and a new definition of empowerment zone resident is added in section 139 of the bill.

The Republican leaders have planned all along to reauthorize the extenders for two years if no deal is reached with the White House on a broader measure making some permanent. Sending this bill to the House Rules Committee is the first step in the process of passing it if negotiators give up on efforts to reach a broader bi-partisan deal. In those talks, WOTC is allowed a five-year extension, which NACS supports making permanent.

The present bill could be superseded by a last-minute deal, but with time in the session running out, House Speaker Paul Ryan's (R-WI) move to ready this bill for passage is understandable. If this bill passes, it means the future of the tax extenders is once again kicked down the road, with another extenders bill next year.

OSHA Updates Voluntary Health and Safety Guidelines

The Occupational Health and Safety Administration (OSHA) unveiled draft updates to its voluntary Safety and Health Program Management guidelines last week. Based on years of identifying best practices and updated to reflect modern technology, these guidelines, first created in 1989, provide a framework for small- and medium-sized businesses to address health and safety issues in the workplace. The public can submit comments up until Feb. 15, 2016.

"Employers who embrace these guidelines will experience lower injury and illness rates, and their progress in improving the safety culture at their worksites will contribute to higher productivity, reduced costs and greater worker satisfaction," said Assistant Secretary of Labor for Occupational Safety and Health David Michaels, in a statement.

New guideline elements include, for example, enhanced hazard identification training for both management and workers, as well as better communication and coordination recommendations for multi-employer worksites. These guidelines do not create any new legal obligations for businesses — they are meant to serve an advisory purpose only.

IRS Reminds Employers with 50-100 Employees to File IRS Forms 1094-C and 1095-C in 2016

The Internal Revenue Service (IRS) is reminding applicable large employers (ALEs) with 50-100 employees that in 2016 they must file Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, and Form 1095-C, Employer-Provided Health Insurance Offer and Coverage. ALEs in this category were given an extra year for mandatory reporting obligations, but will now be subject to penalties for non-reporting in their calendar year 2015 filings. Information about electronic submission of the forms can be found at Affordable Care Act Information Returns.

Employers that currently offer employer-sponsored, self-insured coverage use Form 1095-C to report information to the IRS. The form communicates to employees that they have been offered minimum essential coverage under their employer plan.

For those employers who are not currently familiar with their reporting obligations, or have not coordinated with their accountants or payroll providers, please visit the IRS FAQ page for more information: Questions and Answers about Information Reporting by Employers on Form 1094-C and Form 1095-C.

Additionally, the IRS is asking that after utilizing the Affordable Care Act Information Returns (AIR) program, submitters complete a brief survey about their experience

Most States Will Set Own Compliance Deadlines For Provisions In UST Rule

States that have an EPA-approved, underground storage tank (UST) program will set the compliance dates for various requirements in the EPA's revised UST rule, the agency says. There are currently 38 states with EPA-approved UST programs.

Currently, 12 states have UST programs that aren't approved by the EPA. UST owners in such states are required to follow provisions and deadlines as laid out in the revised EPA rule, and also follow their state's UST rules, according to the agency.

--Vincent Taylor, vtaylor@opisnet.com

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New York is one of the twelve states that does not have an approved program

EPA Sets 2016 Renewable Fuel Standard At 18B Gallons

The Environmental Protection Agency (EPA) on Monday issued its final rule designed to increase production of ethanol to be blended with gasoline through 2016.

The agency said it will require more than 18 billion gallons of renewable fuels, most of it ethanol, next year. The amount is less than what was set in a 2007 renewable fuels law, but more than what was proposed by the EPA in May, according to The Associated Press.

The May proposal called for refiners to use 17.4 billion gallons of renewable fuels in 2016, with approximately 14 billion gallons coming from traditional corn-based ethanol and 3.4 billion gallons coming from advanced biofuels, as CSNews Online previously reported.

The final rule doesn't necessarily mean a higher percentage of ethanol in an individual driver's tank, and isn't likely to have much effect on gas prices. But it does mean there will a higher supply of the homegrown fuel overall, the AP reported.

Janet McCabe, acting assistant administrator for the EPA's Office of Air and Radiation, said the renewable fuels industry is "an incredible American success story" and the 2016 targets are a signal it is growing.

"It's all about more choice and making those fuels more available" to consumers, McCabe said.

More renewable fuels are good news for farm country. But ethanol critics say the levels are too high.

According to the news outlet, oil companies fought the 2007 law, saying the market, not the government, should determine how much ethanol is blended into their gas. Environmental groups, meanwhile, say farmers growing large amounts of corn for ethanol are tearing up the land.

The renewable fuels law seeks to address global warming, reduce dependence on foreign oil and bolster the rural economy by requiring a steady increase in the overall amount of ethanol and other renewable fuels blended into gasoline over time. The Renewable Fuel Standard, as it is called, sets specific yearly targets.

Since its inception, the EPA has said the standards set by the law cannot be fully reached due partly to limits on the amount of renewable fuels other than ethanol that can be produced. Next-generation biofuels, made from agricultural waste such as wood chips and corncobs, have not taken off as quickly as Congress required and the administration expected, the AP report noted.

Still, the new final rule setting targets for 2015, 2016 and retroactively for 2014 represents an overall increase in the use of renewable fuels.

Full 2nd Circuit. Urged To Mull NY Credit-Card Surcharge Ban

By Evan Weinberger

Law360, New York (November 18, 2015, 5:17 PM ET) -- New York businesses seeking to overturn a state prohibition against their tacking surcharges onto credit-card purchases sought full Second Circuit review Tuesday of a panel's rejection of their claims that the law violates the First Amendment.

Five New York businesses including Expressions Hair Design and The Brooklyn Farmacy & Soda Fountain Inc. asked the circuit's entire slate of judges to review a panel's finding that the state law regulated conduct, not speech, and thus did not violate the First Amendment. That ruling overturned U.S. District Judge Jed S. Rakoff's decision to invalidate the state statute.

Given that the Eleventh Circuit reached an opposite conclusion just a few weeks after the Second Circuit panel's September decision, an en banc hearing is needed to resolve the circuit split and ensure New York businesses have the same opportunity to appropriately recover the costs of processing credit cards, the businesses said.

"Absent further review, New York merchants — unlike those in Florida and California — may be unable to reap the full benefits of the historic relief provided by a recent $8 billion antitrust settlement with the leading credit-card companies, in which they have agreed to eliminate their contractual no-surcharge rules as anti-competitive," Tuesday's petition said. "This court should end that intolerable state of affairs and grant rehearing."

At issue in the case is New York's General Business Law Section 518, which bars retailers from informing consumers that the businesses were adding a credit-card surcharge to purchases, even as the statute allowed retailers to apply a discount when customers used cash.

Judge Rakoff ruled in October 2013 that the law violated the First Amendment because it created a semantic, "virtually incomprehensible distinction" between a prohibited surcharge imposed on credit-card users and a legally acceptable discount offered to shoppers paying with cash.

Judge Rakoff also said the law was void under the 14th Amendment because the ban imposed liability based on the

labels that sellers use to describe their prices and was therefore too vague.

After New York appealed, the businesses urged the Second Circuit to affirm that surcharges and discounts should be treated as labels because consumers react differently to them, viewing a surcharge more negatively than a discount.

The Second Circuit overturned Judge Rakoff's decision, saying that the businesses were "simply wrong" to argue that the statute improperly prevented them from using the term "credit-card surcharge."

"What Section 518 regulates — all that it regulates — is the difference between a seller's sticker price and the ultimate price that it charges to credit-card customers," the Second Circuit said.

U.S. Circuit Judges Richard C. Wesley, Debra Ann Livingston and Susan L. Carney sat on the panel for the Second Circuit.

The plaintiffs are represented by Gary B. Friedman of Friedman Law Group LLP and Deepak Gupta of Gupta Wessler PLLC.

New York is represented by Judith Naomi Vale of the State Office of the Attorney General and Ronald Emanuel Sternberg of the New York City Law Department.

The case is Expressions Hair Design et al. v. Schneiderman et al., case number 13-4533, in the U.S. Court of Appeals for the Second Circuit.

--Additional reporting by Joe Van Acker and Pete Brush. Editing by Edrienne Su.

State AGs Advocate For Chip And Pin

Nine state attorneys general from Connecticut, Illinois, Maine, Massachusetts, New York, Rhode Island, Vermont, Washington and the District of Columbia are urging the largest credit card issuers to move to full chip and PIN technology as soon as possible. The attorneys general said that doing so would be in the best interest of consumers, who are now routinely impacted by breaches involving credit and debit cards, and of local businesses, which are at risk of increased financial risks as well as harm to their reputations and loss of consumer trust if they experience a breach.

"Over the last few years, breaches at major retailers that involved credit and debit card information have really shown a giant spotlight at the inherent weakness and vulnerability of magnetic strip cards even when the cards are lost or stolen," Connecticut Attorney General George Jepsen said. "We know, based on experiences in other countries, that chip and PIN cards offer greater security to consumers—security that I believe far outweighs any initial burden or confusion that always comes when we need to get used to a new way of doing things, like using a credit card."

The attorneys general said that while the ongoing implementation of chip-enabled cards in the United States is "imperative in order to provide stronger payment security and assurance to consumers," most chip cards currently being issued in the country rely on a signature, rather than a PIN, as the secondary form of verification.

"There can be no doubt that this is a less secure standard, since signatures can easily be forged or copied or even ignored at the point of sale," the attorneys general wrote. "In order to better protect consumers, the chip-enabled cards issued in this country must be reinforced with the requirement that consumers enter a PIN to verify the transaction….absent this additional protection, your customers and our citizens will be more vulnerable to damaging data breaches. This is something we cannot accept, and nor should you."

By the end of 2015, there were 1.62 billion chip cards in use across 80 countries around the world. France, Canada and the United Kingdom, among others, reported significant reductions in various types of payment card fraud since the adoption of chip and PIN technology. Since 2003, the United States has consistently accounted for about half of the global loss from fraudulent transactions, despite being responsible for only a quarter of total card payments, according to the state AGs.

Meanwhile, the New York Times wrote that the new EMV chip cards are at the center of a growing dispute "that has pitted two of America's most prominent industries—banking and retailing—against each other, and pulled in attorneys general and even the Federal Bureau of Investigation in the process."

While the banks maintain that chip and a signature is enough security, they also continue to say retailers calling for chip and PIN as the more adequate security measure are trying to "deflect attention from the real threat to consumers: weaknesses in retailers' security systems that have allowed hackers to steal credit card data in a series of breaches," according to the Times.

San Francisco Sues AMEX Over Card Fees

City Attorney Dennis Herrera of San Francisco, is suing the American Express Company in a statewide consumer protection action over anti-competitive and illegal merchant restraints alleged to be "responsible for billions of dollars in excessive and improper costs" borne directly by retailers and indirectly by all California consumers.

Herrera's civil suit follows a federal court decision from earlier this year, in which the U.S. Justice Department and 17 state attorneys general prevailed in their case that restrictions imposed by Amex on participating merchants unlawfully restrained trade and violated federal antitrust laws. As a result, Herrera's suit alleges, Amex owes billions in civil penalties and restitution to merchants in California under the state's Unfair Competition Law.

"The party is over for American Express, and the bill is coming due in California," Herrera said in a press statement announcing the lawsuit. "The federal court ruling earlier this year merely confirms what millions of retailers, economists and U.S. Justice Department officials have known for years: American Express has rigged the game. They shook down merchants, stifled competition and shifted costs for their

extravagant member perks to even cash-paying consumers. It's unfair, it's illegal and under state law, it warrants tough penalties and restitution for California's merchants."

Herrera's complaint says that for years Amex has exacted a 3% fee on each charge card transaction—"well in excess of fees charged such competitors as Visa and MasterCard"—accounting for roughly $2.25 billion in fee payments annually by California merchants alone. Also, according to Herrera's complaint, Amex prohibited its participating merchants from encouraging consumers to use less costly payment methods, including cash.

Herrera's complaint (People of the State of California, ex rel. Dennis Herrera v. American Express Company et al.), filed in San Francisco Superior Court on November 6, seeks a judicial declaration that Amex's merchant restraints violate California law together with an injunction barring the company from enforcing its illegal contractual provisions. California's Unfair Competition Law authorizes civil penalties of $2,500 for each violation, which Herrera contends equates to each charge card transaction. The complaint also seeks restitution for California merchants in an amount to be determined at trial, as well as attorney fees and costs of the suit.

Online Lottery Interest Down Despite Strong 2014 Start

Despite Michigan's financially healthy Internet lottery program in its inaugural 2014 year, other states have been unwilling to dive into iLottery more recently, GamblingCompliance.com reports.

A handful of states debuted electronic instant games in 2014, but the concept has since retreated, with Minnesota's program being shut down and no other new states with campaigns for electronic sales.

Kurt Freedlund, president of Lotto Interactive Inc. and former chief operating officer of the Georgia Lottery Corporation, noted that states may be worried about a potential online gaming federal ban or 2016's gubernatorial elections.

"Most states and lottery directors realize that going online is very important and necessary for the continued growth of the industry," Freedlund told GamblingCompliance. "But lotteries are still a part of a government, and they are a part of all issues affecting political stakeholders in their respective states."

At the federal level, NACS supports legislation in the House and Senate, the Restoration of America's Wire Act (H.R. 707 and S. 1668, respectively), to reverse a 2011 U.S. Justice Department decision that reinterpreted the 1961 Wire Act—a 50-year-old law that prohibited online gambling.

A study conducted in Virginia on the revenue potential of online lottery and online gaming operations found that the state could bring in $3.5 million in profits from online lottery operations alone, or $6.4 million to $102 million through full online gaming in the first operating year.

NACS has noted that diverting lottery sales traffic to the Internet would significantly affect the profitability of convenience retailers. The average customer who comes to buy a lottery ticket spends $10.35 in the store, compared to $6.29 for non-lottery customers.

USDOL Proposes Changes To White Collar Exemption

The U.S. Department of Labor (DOL) has proposed changes to the white collar exemptions to federal overtime pay requirements. In the proposal, DOL is considering raising the minimum salary threshold from $455 per week ($23,660 annually) to $970 per week ($50,440 annually) — an increase of more than 100 percent!

In addition, DOL wants to increase this minimum salary on an annual basis by pegging it to the 40th percentile or by indexing it to inflation for urban goods and services (CPI-U, an aggressive measure of inflation). Furthermore, DOL proposes publishing these annual increases to the minimum salary only 60 days before they become effective — providing employers and employees with far too little notice.

The magnitude of the increase to the salary level proposed by DOL combined with possible changes to the duties test, which also contributes to a worker's exemption status, will hurt businesses of all sizes. Many employees would lose the flexibility they currently enjoy, employers would be faced with crushing increases in labor and administrative costs, businesses would suffer with low employee morale, and our customers would experience jumps in prices for our goods and services.

Pilgrim Pipeline Files Application in N.Y.;
N.J. Permit Seen by Year End

Pilgrim Pipeline Holdings LLC said on Wednesday it formally filed a use-and- occupancy permit application in New York State to construct pipelines transporting crude oil and refined products between upstate New York and Northeast refineries.

The company said applications for permits will be filed in New Jersey later this year.

A 200,000-b/d, underground pipeline would bring cheap Bakken oil from Albany, N.Y., southbound to downstate refineries, while another 200,000-b/d pipeline would move refined products including gasoline, diesel, heating oil and jet fuel northbound to the upstate New York areas.

The company said that the total volume of its proposed pipelines will roughly be the same amount of fuels currently transported by only barges along the Hudson Valley region.

"This step begins a comprehensive process of review and public comment in New York," George Bochis, Pilgrim's vice president for development, said in a statement.

The application was filed with the New York State Thruway, or Route 87. It includes a three-volume draft environmental impact statement submitted in compliance with both the New York State Environmental Quality Review Act and the National Environmental Protection Act, the company said.

New York Harbor spot participants said the pipeline, if approved, would improve the economics of transporting petroleum products for consumers, currently done by only

barges, which are considered more expensive and less reliable under inclement weather.

Others, however, cited the project's uncertain timing to obtain approvals, and the current social-political climate generally hostile to any new pipeline projects.

Earlier this month, the White House rejected the highly controversial Keystone XL Pipeline proposal, with environmental impact of tar sand development, generally considered dirtier to produce, being a reason.

Another big obstacle for Pilgrim has been its failure to convince Public Service Electric & Gas Co's (PSEG) to allow the project to use its right of way in a key area between Montville, N.J., and Woodbridge, N.J.

Pilgrim Pipeline's application and information can be found on the Pilgrim website at www.pilgrimpipeline.com
--Frank Tang, ftang@opisnet.com
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Gasoline Price Drop Opens Margin Window

Gasoline bulk prices may be bouncing off their lows, but since the start of the month, average numbers have plunged anywhere from 15-50cts/gal. The steepest declines have been in Chicago and the smallest drops were in the New York Harbor. Nonetheless, the plunge in bulk prices has opened a respectable rack-to- retail margin window for nationwide retailers.

Sparked by big price drops in the Gulf Coast, Chicago and on the West Coast, nationwide station gross profits have climbed back to two-month highs, the latest data from OPIS Retail Fuel Watch (RFW) reveals. Gross profits are back to 29cts/gal, expanding 68% in the last week, which saw bulk prices in Chicago and the Gulf hit new lows.

Southeastern station operators have seen the biggest turnaround in the past few weeks. Profits that were squeezed to single digits when regional costs were on the rise are back to respectable levels in excess of 20cts/gal thanks to Gulf Coast prices that hit $1.45/gal on Nov. 3 before dropping this week to $1.10/gal.

Chicago bulk prices at the start of the month hit $1.60/gal at the height of some the refinery production issues facing the region. Numbers have since cut back to $1.00/gal (a low of 93cts/gal was reported by OPIS), so that has boosted Great Lakes station profits. The lasts RFW data shows Great Lakes gross profits at 30cts/gal compared to gasoline being sold at a loss by the average station in early October.

California prices have also turned lower on a bulk basis. Outright CARBOB numbers that topped $1.80/gal a month ago have been whittled down to $1.30/gal and regional station profits are the strongest in the country.

Retailers are starting to pass the savings along to consumers. Prices at the pump are dropping quickly. Some of the biggest declines are coming in the Great Lakes. Illinois prices are below the national average by a couple of cents at $2.07/gal and have declined 18cts/gal in one week's time. Wisconsin prices are down 17cts/gal on the week and almost 30cts/gal in the last month. Michigan prices are in the throes of hitting $2/gal with prices having plunged 25cts/gal in the last week.
--Ben Brockwell, bbrockwell@opisnet.com
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Cumberland Farms Re-Branding

You may have noticed that Cumberland Farms supplied service stations, Gulf and some Mobil, are having the brand removed from the stations. This is in anticipation of the sale of the Gulf/Mobil supplied stations that Cumberland Farms is selling to ARC Lit. The sale is immanent. The company owned and operated stations will be rebranded Cumberland Farms.

Sunoco To Acquire Alta East

Sunoco LP has entered an agreement for wholly owned subsidiaries Southside Oil LLC and MACS Retail LLC to acquire Alta East Inc., a branded distributor based in Middletown, N.Y., according to a letter from Sunoco to Alta East retailers.

Alta East, a Sunoco wholesaler, also sells Mobil and Valero branded fuel and has stores that operate under the "On the Run" and "Wally Mart" banners. The company owns at least 30 sites that it leases to dealers and supplies more than 100 locations, as previously reported in Oil Express.

Alta East officials would not comment on the sale except to say that closing is scheduled for Dec. 1. Sunoco invited the distributor's dealers to a meeting Friday, Nov. 20, in Middletown, N.Y.

"While Sunoco has attempted to visit each of you at your locations we understand that there are a number of questions about how this affects you," wrote Alan Rogers, division marketing manager for Sunoco. "During this meeting you will receive information and training from Credit, Compliance, IT, Maintenance, Transportation, as well as meet the operations team."
--Donna Harris, dharris@opisnet.com
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Fla. Lawmakers Try To Block Oil Cos. From Operating Retail Outlets

Two state legislators are hoping to take oil companies out of the convenience store business.

State Reps. Bryan Avila (R-111th District) and Carlos Trujillo (R-105th District) introduced a bill in the Florida House of Representatives that would prohibit a "producer, refiner or subsidiary from operating certain retail outlets selling its petroleum products."

HB805 was filed Nov. 30. and the prohibition would go into effect Oct. 1, 2016.

The measure would amend an existing state law prohibiting "predatory practices" in the motor fuel market, according to Law360. It would ban the energy companies

from operating gas stations and other retail outlets that sell their petroleum products, either under the name of the producer or refiner, or under a secondary brand name. Subsidiaries to producers and refineries would be subject to the same restrictions.

Under the bill, people damaged by violations of the measure would be allowed to bring civil lawsuits seeking declaratory judgments and actual damages, among other forms of relief.

In addition, violators would be subject to daily fines of up to $250,000, and the bill authorizes courts to grant injunctive relief in the case of an alleged violation. Violators could also be held liable for attorneys' fees during a dispute, the news outlet reported.

Florida State Sens. Jack Latvala (R-20th District), Anitere Flores (R-37th District), Miguel Diaz de la Portilla (R-40th District) and Oscar Braynon II (D-36th District) introduced a similar bill in the state Senate on Nov. 18.

U.S. Adult Smoking Rates Keep Dropping

The smoking rate of U.S. adults continues its slide down, with the number of adults currently smoking at 14.9%, according to new government data from January to June of 2015, CNN reports. That's less than a report from last week indicating 16.8% of adults lit up last year. Overall, it's the lowest number of smokers since the government began conducting this survey in 1997 when 24.7% of U.S. adults smoked.

The data from the Centers for Disease Control and Prevention's National Center for Health Statistics showed that more men than women smoke, with younger people more likely to smoke than older ones. For example, 16.3% of those between the ages of 18 and 44 and 16.7% of those between the ages of 45 and 64 smoked. For race, blacks, non-Hispanics and whites (17%) were more likely to smoke than Hispanics (9.7%).

The CDC credits smoking bans, higher taxes and cost of cigarettes, educational campaigns and improved ways to stop smoking with lowering the smoking rate. "They work to reduce the enormous health and financial burden of tobacco use and secondhand smoke exposure among Americans," said Brian King with the agency's office on smoking and health.

Health officials want the percentage of individuals who smoke to be 12% or less within five years. In September, CVS claimed credit for helping to lower the smoking rate by its decision to pull cigarettes from its shelves.

Auto Body Corner

ESTIMATING TIPS

Adhesive Backing Removal in CCC - The labor time in CCC for moldings, nameplates and emblems includes the installation time only. It does not include the time needed to remove the old adhesive backing. This can be found in the Motor Guide to Estimating on page G33 and also in DEG inquiry 7698.

The Material for Bagging a Vehicle in Audatex - Audatex includes the time in the labor. However, the estimate preparer decides what is or is not included in the Paint Materials. This can be found on page 182 of the Audatex Database Reference Manual.

Note: The estimating databases are all intended to be used as a GUIDE ONLY - it is important to remember that the auto body professional performing the repair is in a position to thoroughly inspect, diagnose and identify the methodology and their unique cost of the vehicle damage repair.

CCC Footnotes Take Precedence

Footnotes may contain vehicle-specific information and the content of footnotes is in addition to – and takes precedence over – information in the Guide to Estimating pages for the operation indicated. This can be found in DEG inquiry number 8659.

You can view this tip and others at www.degweb.org.

Uncovering Unperformed Maintenance On Kia Vehicles

TECHNICIAN TALK

by Bob Dowie - Nov 27, 2015

While some vehicle problems will motivate the customer to make an appointment, an equal amount of Kia repair opportunities will be discovered as the vehicle is being serviced. If you're not already doing so, always encourage your customers to keep their vehicle maintenance up to date. And, just as important, let them know your techs are trained and equipped to handle any maintenance requirements.

I've been surprised more than once by a long-time customer who said they were not aware that we could handle exhaust replacement, or that we could do an oil change service while they wait. Never assume that the customer knows all the services you offer, or how you can accommodate their vehicle repair needs.

UNDERCAR MAINTENANCE

From a safety standpoint, it could be argued that the steering and suspension system on any car is the most critical. That's why it's so important that every Kia that goes on the lift gets a basic safety check. A good visual inspection takes only a couple of minutes but will provide huge benefits to both your shop and the customer. You also have the satisfaction of knowing you solved the problem and put the customer in a safer car.

With MacPherson strut being the system of choice on Kia's line of cars, a simple shake, rock and roll will pick up problems that may go unnoticed by the driver. Grab the wheel at the nine and three o'clock positions and shake it from side-to-side, feeling for looseness in the steering system.

If you feel some play, have an assistant look for the movement, concentrating on the inner and outer tie rod ends, side movement of the ball joint, and control arm bushing and wheel bearing play. Move your hands to the 12 and six o'clock positions and continue rocking the wheel. Here you'll pick up play in the strut shaft or mounting, ball joint

and control arm bushing. Spin the wheel to check for noises and smooth rotation. Any dragging is probably a result of a brake problem and should be investigated.

If you find play at the inner tie rod, confirm that it's the joint and not the rack bushing that is worn. If the rack boot allows it, squeeze the boot to feel that the joint is the problem and the rack isn't loose and moving in the housing.

This will also give you an indication if the rack boot needs to be replaced. It's always a good practice to replace the boot, but you may find it's easier to obtain a tie rod end rather than a direct-fit boot. Some of the universals fit well, but if you have to order the tie rod end, add the boot kit to the order.

With outer joints, make note of the length of the rod before the end is -removed to get the toe in the ballpark on reassembly; many techs simply count the turns when the rod is removed, but a measurement from the center of the joint to a known point is a good backup. Either way, be sure the toe is within specs before the car is returned to the customer. If the play is a result of a worn ball joint, most Kia models will require that you change the lower control arm, as the joints are not replaceable.

The most common suspension complaint you'll hear from the owner will be noise related, often described as a creaking or rubbing sound as well as the familiar knocking complaint. While a road test on a road in poor condition will confirm the complaint, we have better luck with rocking the car side by side while checking for looseness that will lead to the knocking sound. Most of these noises will be traced to the anti-sway bar mounting and links. Rocking the car will unload and load these components, usually resulting in a diagnosis with which you can be confident.

If play in the wheel bearing is -noticed, it should be taken care of whether or not it's noisy. Check the torque on the axle nut; if it's loose, you'll have to make a judgment call. Is it the result of a previous -repair, or is the bearing or hub worn? If the play is excessive and the re-torque has no effect, be sure a hub is available before the car is disabled on the lift. While it's not a common problem on Kias, it's not unheard of for the hub to show wear on the inner race area, especially in light of the amount of trouble-free miles these cars deliver.

PAY ATTENTION TO THE BRAKES

The first step in any job is to establish why the -customer thinks the brakes need to be serviced. The most common complaint we'll hear is a heavy metal-to-metal grinding sound when braking, which -indicates that one or more of the pads are worn to the backing plate. But it's the more -obscure problems that require some specific questions. For me, the most important question is, "Will the tech experience the problem on a road test?" If the -answer is "no," get as much -detail as you can about when the problem occurs.

An occasional long pedal could be a master cylinder bleeding down, which usually happens in a stop-and-go or a downhill situation where the brakes are being used. Or, it could also be the fluid heating after a run on the interstate, making the pedal fade as a result of the brakes binding. Knowing when the problem happens will not only save you some time, but it will certainly help you avoid a misdiagnosis.

If you're looking at a grinding problem, the next step is to check for uneven wear. If one wheel is showing more brake wear than the other on that axle, it's time to do some investigating.

Before you jump to the conclusion that you have a frozen caliper, take a couple of minutes to confirm the diagnosis and look at the rest of the system so you can give the customer an -accurate estimate, and get all the parts you need in one call.

The first step is to confirm what's causing the brake to drag. While our first thought might be the caliper, there was no customer-reported odor or -vibration after an extended interstate run that would point to a locked-up caliper. And, we know the rotor will be showing signs of overheating as a result of that wheel dragging and having to do more than its share of the work.

Push the caliper pistons back but, before you do, attach your bleed bottle and open the bleeders so you're not pushing the most contaminated fluid back up through the dirt-sensitive ABS unit. You're going to be bleeding and flushing the system anyway as part of the service, so you might as well get rid of that used up fluid from the calipers right away.

With the bleeders open, the pistons should -return with little effort; if not, consider a pair of replacement calipers. If the problem doesn't appear to be the calipers, check for the pads sticking in the caliper brackets, and don't overlook the slider pins as a source of binding. Keep in mind how important smooth mechanical operation is to the braking system. We have more than 1,000 psi applying the brakes, and we're relying only on caliper piston seals and mechanical condition to release them.

Remember, everything from a long pedal stroke to a good pedal that just doesn't stop well, can be traced back to the same mechanical issues we're looking at while diagnosing the uneven wear.

With the calipers off the brackets, continue to look for issues that could be causing the uneven wear problem. If the caliper pistons move freely and the boots are in good shape, turn your -attention to the sliders and pad movement. If you find nothing dragging on the worn side, double-check the other wheels for binding that's preventing that caliper from doing its fair share of the work. Usually pad wear patterns will indicate this kind of problem.

We can prevent these problems by using good work habits when we're performing any brake service. When you're replacing friction material, take the time to clean and protect the surfaces of the caliper bracket where the pads contact. Be sure to remove the anti-rattle hardware to get rid of any rust that may build up under these parts. Remove, clean and lubricate the sliders, ensuring a good, solid brake pedal, as well as an ABS system that will function as designed.

A solid buildup of rust and corrosion on the non-friction area of the rotor is common, and for the cost involved it doesn't make sense to risk a noise or vibration comeback.

I'm sure you're going to -inspect the rear brakes before the estimate is written. Again, be sure everything is operating freely and don't overlook the rear wheel cylinders for smooth operation, just like on the front. If the shoes are good, there's no reason to disassemble them, but push on the pistons to be sure the cylinders aren't frozen. If the shoes are worn, be sure to free up and lube the contact areas of the backing plate, as well as all of the adjustment and handbrake hardware.

ABS/ESC ENHANCEMENTS

We've talked about the mechanical aspects of the undercar service, but Kia certainly hasn't been standing still when it comes to the electronic aspect of undercar improvements. ABS has been in use for years, along with ESC (electronic stability control). This system looks at wheel speed, brake and steering inputs, as well as vehicle yaw and lateral acceleration, to assist the driver.

A more recent change is the use of electric power steering assist, which uses an electric power steering (EPS) module controlled by various sensors (steering angle sensor, torque sensor, fail-safe relay, etc.) located inside the steering -column. This system can provide a more precise and timely control than the formerly used hydraulic systems. The EPS steering column and EPS unit assembly must not be disassembled for inspection. If service is required, replacement will be necessary.

CHECK SERVICE RECOMMENDATIONS

In this day of extended intervals, it pays to check Kia's service recommendations, as they will vary depending on engine size. As an example, in our area where many of our customers have a 50-mile or better commute to work, the economical Soul is a popular model. On the 1600cc-equipped models, spark plugs get replaced every 30,000 miles, while the 2.0-L version has no mention of plugs in the schedule (we would still recommend replacement at 90,000 miles). In -recent years, Kia has made the move away from timing belts to chains, but there are still many of these cars on the road where Kia recommends that the belt be replaced at the 90,000-mile mark.

UNDERHOOD -MAINTENANCE

The most common underhood maintenance service will be timing belt replacement. Usually performed as a recommended service at 90,000 miles, this is a good opportunity to suggest additional services that are due at the same mileage. At a minimum, any accessory drive belts should be replaced, and it's a good idea to suggest water pump replacement at the same time. Even if the pump looks good, there's a good chance it won't last another 90,000 miles. It's not a hard sell once the customer is made aware of the labor costs and inconvenience involved to replace the pump at a later date.

The same applies to the camshaft and crank seals, so any sign of leakage should motivate -replacement. If you're using the common 30,000-, 60,000- and 90,000-mile service intervals, it's also time to recommend the relatively extensive 90,000-mile service. Doing the timing belt and 90,000-mile service on the same visit can be expensive, but many customers will prefer having both done on the same visit for time and labor reasons.

Some of the familiar customer complaints involve no power, rough run, misfires and hard-start issues. If the check engine lamp is lit, you need to determine if it's the result of the problem that concerns the customer, or whether it's been on for months with no obvious problem.

Kias are also susceptible to the relatively common cam and crank sensor codes. Often presented as a stalling condition, they'll usually start right back up and can be driven into the bay. In this case, we just change the sensor if a sensor code is present. On the crank sensors, it's common for the harness to be damaged by the timing belt if the harness is not routed properly. There are also -numerous reports of the cam sensor being damaged during water pump replacement.

On the four-cylinder cars, there are reports of crank sensor failures after broken belts are -replaced. Debris from the old belt not being -thoroughly removed can be the culprit, so be sure there is nothing jammed between the sensor and reluctor. If the sensor is removed, be sure it's installed facing the proper direction (facing the reluctor), as it's easy to install it "backward."

We talked earlier about how important it is for both the shop and customer to keep up on -required vehicle maintenance. With that said, the most -important service we perform is the basic oil change service. Often performed by the least experienced tech, it's important that this person is well trained on what should be inspected as the service is performed, to keep an eye out for other necessary maintenance. For example, rather than merely topping up low fluid, the tech should find out what caused the fluid to go low.

Likewise, the water pump should be checked for leaks at the same time that the drive belts are inspected. Any indication of leakage should be noted or pointed out to a more experienced tech so the decision can be made if immediate service is -required, or the service can wait until a future visit. This isn't upselling, but rather an -opportunity to provide a higher level of service your customers expect, as they've chosen to have an oil service performed by a full service shop, rather than at a quick oil change place.

Kia has moved toward direct fuel injection with its GDI system. This system creates few problems from the maintenance perspective, but be aware it's there and follow the proper safety procedures if you're working on the fuel system. These systems, with their high-pressure mechanical pumps, make a great deal of fuel pressure that has to be relieved before the system is opened.

With the GDI system, Kia also recommends that a valve cleaning fuel additive be added every 7,500 miles in conjunction with the oil change. I would recommend that it should be added at least every other oil change, and, as expected, Kia recommends its product.

The later-model Kias are equipped with the now common electronic throttles. While very reliable, there will be a time when cleaning will become necessary. Most of us are aware that we can no longer flood the housing with

cleaner and risk damage to the sensitive electronics in the unit. Using the cleaner sparingly, we spray the cleaner on a rag and wipe the throttle blade and housing. On more stubborn units, a stiff nylon brush will usually do the trick.
It's important that your shop makes the investment necessary to be able to diagnose these systems. For starters, it will require a scanner with enhanced capabilities. While the factory tools would be ideal, there are other options available that will give you access to a variety of vehicles. With these tools becoming more affordable, there's just no reason for your shop not to have one.

Because You Asked

Question:

What is the proper method of disposal of used oil filters?

Answer:

Terns plated oil filters are no longer manufactured in the United States for use in private vehicles. Terns plated oil filters, which consist of an alloy of lead and tin, are considered a hazardous waste when disposed. However, non-terns plated used oil filters are not considered a hazardous waste if used oil is removed from the filter by one of the following methods:

- Puncturing the filter and hot draining for at least 12 hours at or near engine-operating temperature.
- Hot draining for at least 12 hours at or near engine-operating temperature and then crushing the filter.
- Hot draining at or near engine operating temperature and dismantling filter.
- Any other equivalent hot draining method that will remove used oil.

Used oil filters that are not drained by one of the above methods must be managed as hazardous waste.
If one of the above methods has been performed, these used oil filters can be disposed of as nonhazardous solid waste, subject to town and county requirements. However, the most environmentally preferred method of disposal is to recycle these filters, and opportunities exist for recycling properly drained filters. The Department encourages the recycling of used oil filters wherever possible. Check with your local scrap metal yard for more recycling information.

Pollution Prevention Tips for Managing Used Oil Filters

- Crush or puncture the dome or antidrain valve and hot drain the filter.
- Collect oil from filter crushing and manage it the same way as engine waste oils.
- Store drained and crushed filters in a leak-proof container until recycled or disposed.
- Recycle drained or crushed filters with your scrap metals.

Question:

What signs does the Department of Motor Vehicles Require on a repair shop or used car business.

Answer:

The sign requirements are not the same for all business types with the dealer sign requirements being fairly specific (immediately below).
CR 78.26(b) Dealers are required to display signs and/or window lettering which are of a permanent nature on the front of the premises occupied by their places of business. Such signs and/or window lettering must contain the actual name under which the business is conducted. The words and/or letters of the signs and/or window lettering must be of a size sufficiently large so that the public may quickly and easily discern said signs and/or window lettering and readily establish the identity of the dealer. The sign and/or lettering must be displayed in a conspicuous place on the front of the premises. When a dealer does business under two or more names, a sign or window lettering in each name is required.

DMV also tells us that a repair shop / inspection station (green / yellow sign) business may additionally opt to post their legal business name. In this case the sign must be in an unobstructed location and large enough to be easily visible. Should a business wish to use a piece of advertising such a sign saying "Mobil Service" the business has two options. First they may change their name or d/b/a to include the name Mobil Service, and post a sign bearing the name of that business. This the required format for dealers (red signs). Second, repair shops and inspection stations may leave the advertising sign intact, and post the business name in a manner to preclude confusion as to the actual business name as on the repair shop license.

Contact us with any questions.

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 518-452-4367.

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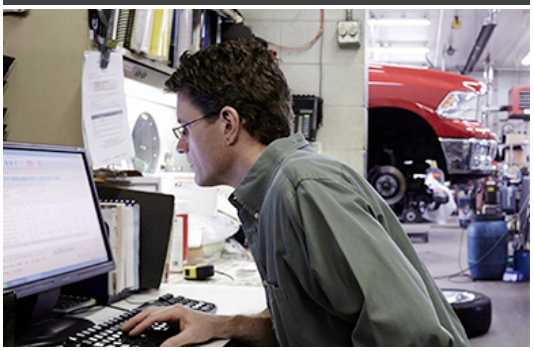

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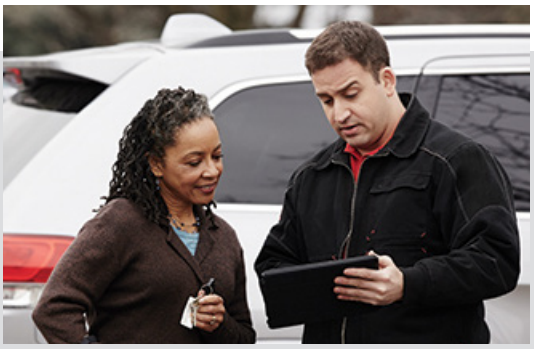

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Are you happy with the cost and service provided by your carrier/agent?		Yes	No
If yes STOP here… If NO or NOT SURE you may want to look at the following			
Is your coverage insufficient?		Yes	No
Is the service poor to non-existent?		Yes	No
Is the 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:

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Covered services available to members include:

- Defense in Small Claims Court if your business is sued or at Department of Motor Vehicles or at any other New York State Administrative Proceeding hearing. (Once per year.)

- Review of leases, supply contracts and franchise agreements to advise you of your obligation under these contracts. The plan does not include actual negotiation on your behalf. (One hour per issue, up to five hours per year.)

- Consultation on legal questions pertaining to your business. (One hour per issue, up to five hours per year.)

Appeals of judgments against you are not a covered benefit, but are available to members at special contract prices.

Additional legal services will be provided by the designated law firm's standard hourly rate less 15%. Special contract prices have also been negotiated for the following services.

- Residential real estate purchase or sale. The designated law firm will represent you in the sale of purchase of your primary residence and/or a second home or vacation property at the following rates:

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